

SAN BERNARDINO COUNTY

Revised Audit Report

COURT REVENUES

July 1, 2001, through June 30, 2006



JOHN CHIANG
California State Controller

October 2010



JOHN CHIANG
California State Controller

October 29, 2010

The Honorable Larry Walker
Auditor/Controller/Recorder
San Bernardino County
222 W. Hospitality Lane, 4th Floor
San Bernardino, CA 92414-0018

Tressa Kentner
Court Executive Officer
San Bernardino Superior Court
171 W. Third Street, 2nd Floor
San Bernardino, CA 92415-0302

Dear Mr. Walker and Ms. Kentner:

The State Controller's Office audited San Bernardino County's court revenues for the period of July 1, 2001, through June 30, 2006, and issued a report on November 25, 2009. Subsequently, the county submitted additional documentation for our review. Based on the results of this review, we revised Findings 1, 2, and 4 accordingly.

Our audit disclosed that the county underremitted a net of \$2,311,048 in court revenues to the State Treasurer as follows:

- The county overremitted 50% excess of qualified fines, fees, and penalties by \$685,403.
- The county underremitted collection program revenues of criminal cases by \$559,539.
- The county underremitted fines and penalties by \$10,634.
- The court underremitted collection program revenues of traffic cases by \$103,613.
- The court underremitted penalties from traffic violator school cases by \$2,322,665.

Once the county has paid the underremitted Trial Court Trust Fund, Trial Court Improvement Fund, and State Court Facilities Construction Fund amounts, we will calculate a penalty on the underremitted amounts, in accordance with Government Code sections 68085, 70353, and 70377.

The Honorable Larry Walker
Tressa Kentner

-2-

October 29, 2010

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

cc: Annette Kerber

Assistant Treasurer/Tax Collector/Public Administrator
San Bernardino County
John Judnick, Senior Manager
Judicial Council of California
Julie Nauman, Executive Officer
Victim Compensation and Government Claims Board
Greg Jolivette
Legislative Analyst's Office

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Revised Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by San Bernardino County for the period of July 1, 2001, through June 30, 2006.

We revised our audit report based on additional documentation submitted by the county subsequent to the issuance of the final audit report dated November 25, 2009. Our revised audit disclosed that the county underremitted a net of \$2,311,048 in court revenues to the State Treasurer as follows:

- The county overremitted 50% excess of qualified fines, fees, and penalties by \$685,403.
- The county underremitted collection program revenues of criminal cases by \$559,539.
- The county underremitted fines and penalties by \$10,634.
- The court underremitted collection program revenues of traffic cases by \$103,613.
- The court underremitted penalty from traffic violator school cases by \$2,322,665.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and to provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

Government Code section 68103 requires that the State Controller determine whether or not all court collections remitted to the State Treasurer are complete. Government Code section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, Government Code section 12410 provides the State Controller with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2001, through June 30, 2006. We did not review the timeliness of any remittances the county may be required to make under Government Code sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Treasurer-Tax Collector, and Auditor-Controller's Office.

We performed the following procedures:

- Reviewed the accuracy of distribution reports prepared by the county, which show court revenue distributions to the State, the county, and the cities located within the county.
- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow.
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions.
- Evaluated the accuracy of revenue distribution using as criteria various California codes and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts.
- Tested for any incorrect distributions.
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

San Bernardino County underremitted \$2,311,048 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section.

**Follow-Up on Prior
Audit Findings**

The county has satisfactorily resolved the findings noted in our prior audit report, issued July 29, 2003, with the exception of underremitted fines and penalties (Finding 3).

**Views of
Responsible
Officials**

We issued a final audit report dated November 25, 2009. Subsequently, the county provided additional documentation for our review. After reviewing the additional documentation, we revised Findings 1, 2, and 4. In a separate e-mail dated April 6, 2010, Bruce Robert, Chief, County Central Collections, and Pam Nay, Court Chief Financial Officer, agreed with the revisions to Findings 1, 2, and 4.

Restricted Use

This report is solely for the information and use of San Bernardino County, the San Bernardino County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

October 29, 2010

**Revised Schedule 1—
Summary of Audit Findings by Fiscal Year
July 1, 2001, through June 30, 2006**

Description	Account Title ¹	California Code ²	Fiscal Year					Total	Reference ³
			2001-02	2002-03	2003-04	2004-05	2005-06		
<u>County</u>									
Overremitted 50% excess of specified fines, fees, and penalties	Trial Court Improvement Fund	GC §77205	<u>\$(118,826)</u>	<u>\$(163,145)</u>	<u>\$ 150,231</u>	<u>\$ (236,445)</u>	<u>\$ (317,218)</u>	<u>\$ (685,403)</u>	Finding 1
Underremitted collection program revenues	Penalty Fund	PC §1464	(4,266)	(4,238)	10,100	59,099	121,663	182,358	Finding 2
	Trial Court Improvement Fund	PC §1202.4	13,711	10,159	(64,575)	18,986	193,726	172,007	Finding 2
	Trial Court Improvement Fund	GC §68090.8	(48)	3,115	12,970	5,643	14,668	36,348	Finding 2
	Victim Indemnity Fund	PC §1463.18	1,125	3,325	148	3,913	6,766	15,277	Finding 2
	Court Facilities Construction Fund	GC §70372(a)	—	—	419	28,236	46,506	75,161	Finding 2
	General Fund	PC §1465.7	—	—	16,784	51,738	10,115	78,637	Finding 2
	General Fund	PC §1203.097	—	—	(1,915)	(4,719)	(9,854)	(16,488)	Finding 2
	General Fund	PC §290.3	(3)	(1)	(10)	5	259	250	Finding 2
	General Fund	H&SC §11502 and §11372.5	(45)	(227)	(220)	228	399	135	Finding 2
	Trial Court Trust Fund	PC §1465.8	<u>—</u>	<u>—</u>	<u>1,023</u>	<u>5,726</u>	<u>9,105</u>	<u>15,854</u>	Finding 2
Subtotals			<u>10,474</u>	<u>12,133</u>	<u>(25,276)</u>	<u>168,855</u>	<u>393,353</u>	<u>559,539</u>	
Underremitted fines and penalties	Penalty Fund	PC §1464	<u>4,998</u>	<u>3,190</u>	<u>1,595</u>	<u>638</u>	<u>213</u>	<u>10,634</u>	Finding 3
Totals, County			(103,354)	(147,822)	126,550	(66,952)	76,348	(115,230)	

Revised Schedule 1 (continued)

Description	Account Title ¹	California Code ²	Fiscal Year					Total	Reference ³	
			2001-02	2002-03	2003-04	2004-05	2005-06			
<u>Superior Court</u>										
Underremitted collection program revenues	Penalty Fund	PC §1464	—	—	—	—	50,775	50,775	Finding 4	
	DNA Identification Fund	GC §76104.5	—	—	—	—	4,838	4,838	Finding 4	
	Trial Court Improvement Fund	GC §68090.8	—	—	—	—	5,927	5,927	Finding 4	
	Court Facilities Construction Fund	GC §70372(a)	—	—	—	—	27,262	27,262	Finding 4	
	General Fund	PC §1463.22(c)	—	—	—	—	(2,814)	(2,814)	Finding 4	
	General Fund	PC §1463.22(b)	—	—	—	—	(844)	(844)	Finding 4	
	Trial Court Improvement Fund	PC §1202.4	—	—	—	—	(5,316)	(5,316)	Finding 4	
	Trail Court Trust Fund	PC §1465.8	—	—	—	—	(17,600)	(17,600)	Finding 4	
	Penalty Fund	VC §40611	—	—	—	—	(148)	(148)	Finding 4	
	General Fund	PC §1465.7	—	—	—	—	41,533	41,533	Finding 4	
Subtotals			—	—	—	—	103,613	103,613		
Underremitted penalties from traffic violator school cases	Court Facilities Construction Fund	GC §70372(a)	—	—	463,901	763,729	1,095,035	2,322,665	Finding 5	
Subtotals			—	—	463,901	763,729	1,095,035	2,322,665		
Totals, Superior Court			—	—	463,901	763,729	1,198,648	2,426,278		
Net amount underpaid (overpaid) to the State Treasurer			\$ (103,354)	\$ (147,822)	\$ 590,451	\$ 696,777	\$ 1,274,996	\$ 2,311,048		

¹ The identification of state revenue account titles should be used to ensure proper recording when preparing the remittance advice (TC-31) to the State Treasurer.

² GC=Government Code, PC=Penal Code, VC=Vehicle Code, H&SC=Health and Safety Code

³ See the Findings and Recommendations section.

**Revised Schedule 2—
Summary of Underremittances by Month
Trial Court Trust Fund
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ 85	\$ 477	\$ —
August	—	—	85	477	—
September	—	—	85	477	—
October	—	—	85	477	—
November	—	—	85	477	—
December	—	—	85	477	—
January	—	—	85	477	—
February	—	—	85	477	—
March	—	—	85	477	—
April	—	—	85	477	—
May	—	—	85	477	—
June	—	—	88	479	—
Total underremittances (overremittances) to the State Treasurer	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 1,023</u>	<u>\$ 5,726</u>	<u>\$ —</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Revised Schedule 3—
Summary of Underremittances by Month
Trial Court Improvement Fund
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ 1,138	\$ 1,106	\$ (4,300)	\$ 2,052	\$ 17,417
August	1,138	1,106	(4,300)	2,052	17,417
September	1,138	1,106	(4,300)	2,052	17,417
October	1,138	1,106	(4,300)	2,052	17,417
November	1,138	1,106	(4,300)	2,052	17,417
December	1,138	1,106	(4,300)	2,052	17,417
January	1,138	1,106	(4,300)	2,052	17,417
February	1,138	1,106	(4,300)	2,052	17,417
March	1,138	1,106	(4,300)	2,052	17,417
April	1,138	1,106	(4,300)	2,052	17,417
May	1,138	1,106	(4,300)	2,052	17,417
June	1,145	1,108	145,926	2,057	17,418
Total underremittances (overremittances) to the State Treasurer	<u>\$ 13,663</u>	<u>\$ 13,274</u>	<u>\$ 98,626</u>	<u>\$ 24,629</u>	<u>\$ 209,005</u>

NOTE: Delinquent Trial Court Trust Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Revised Schedule 4—
Summary of Underremittances by Month
State Court Facilities Construction Fund
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ 38,693	\$ 65,997	\$ 97,400
August	—	—	38,693	65,997	97,400
September	—	—	38,693	65,997	97,400
October	—	—	38,693	65,997	97,400
November	—	—	38,693	65,997	97,400
December	—	—	38,693	65,997	97,400
January	—	—	38,693	65,997	97,400
February	—	—	38,693	65,997	97,400
March	—	—	38,693	65,997	97,400
April	—	—	38,693	65,997	97,400
May	—	—	38,693	65,997	97,400
June	—	—	38,697	65,998	97,403
Total underremittances (overremittances) to the State Treasurer	\$ —	\$ —	\$ 464,320	\$ 791,965	\$ 1,168,803

NOTE: Delinquent State Court Facilities Construction Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 70377. The SCO will calculate and bill the county for the penalty after the county pays the underlying amount owed.

**Revised Schedule 5—
Summary of Overremittances by Month
July 1, 2001, through June 30, 2006**

Month	Fiscal Year				
	2001-02	2002-03	2003-04	2004-05	2005-06
July	\$ —	\$ —	\$ —	\$ —	\$ 708
August	—	—	—	—	708
September	—	—	—	—	708
October	—	—	—	—	708
November	—	—	—	—	708
December	—	—	—	—	708
January	—	—	—	—	708
February	—	—	—	—	708
March	—	—	—	—	708
April	—	—	—	—	708
May	—	—	—	—	708
June	118,826	163,145	—	236,445	317,925
Total underremittances (overremittances) to the State Treasurer	<u>\$ 118,826</u>	<u>\$ 163,145</u>	<u>\$ —</u>	<u>\$ 236,445</u>	<u>\$ 325,713</u>

Revised Findings and Recommendations

**FINDING 1—
Overremitted excess
of qualified fines, fees,
and penalties**

The County Auditor-Controller's Office overremitted by \$685,403 the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the five fiscal year (FY) period of July 1, 2001, through June 30, 2006.

Per Government code (GC) section 77201(b)(2), the county, for its base revenue obligation, is required to remit \$8,163,193 for FY 2001-02 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund, 50% of qualified revenues that exceed the stated base for each fiscal year.

The improper computations occurred because of the following, attributable to the county:

- Under Penal Code (PC) section 1463.11, the red-light violation distributions of \$95,594 should not have been included in the computations as PC section 1463.001 fines; this resulted in an overremittance.
- The qualified accounts from the County Central Collections Department totaling \$99,176, as noted in Finding 2, resulted in an underremittance.
- The qualified accounts from the County Central Collections Department fee variance account totaling \$21,414, as noted in Finding 3, resulted in an overremittance.
- The prior period adjustments made by the County Auditor's Office from the traffic violator school due the emergency medical services account understated the computations for FY 2003-04 by \$332,716 and resulted in an underremittance.
- The traffic violator school-related computations due the emergency medical services account overstated the computations by \$332,717 in FY 2001-02, and \$216,204 in FY 2002-03, which resulted in an overremittance.

The improper computations occurred because of the following conditions attributable to the superior court:

- The superior court did not properly distribute revenue from the Traffic Violator School (TVS) cases during the period of January 1, 2004, through June 30, 2006, as noted in the narrative of Finding 5. Additionally, the court did not deduct the \$2 applicable to the county traffic school courthouse construction funds solely from the county 23% TVS fees account during the period. This condition overstated the county 77% traffic violator school account fees by \$1,197,518 when conducting the computations, and resulted in an overremittance.

- The superior court, as noted in the narrative of Finding 4, inequitably distributed collection program operating costs from its comprehensive court collections program. The inequitable distribution understated the computations by \$60,751, and resulted in an underremittance.

The qualified revenues reported for FY 2001-02 were \$14,873,585. The excess, above the base of \$8,163,193, is \$6,710,392. This amount should be divided equally between the county and the State, resulting in \$3,355,196 excess due the State. The county has remitted a previous payment of \$3,474,022, causing an overremittance of \$118,826.

The qualified revenues reported for FY 2002-03 were \$16,427,491. The excess, above the base of \$8,163,193, is \$8,264,298. This amount should be divided equally between the county and the State, resulting in \$4,132,149 excess due the State. The county has remitted a previous payment of \$4,295,294, causing an overremittance of \$163,145.

The qualified revenues reported for FY 2003-04 were \$18,376,210. The excess, above the base of \$8,163,193, is \$10,213,017. This amount should be divided equally between the county and the State, resulting in \$5,106,509 excess due the State. The county has remitted a previous payment of \$4,956,278, causing an underremittance of \$150,231.

The qualified revenues reported for FY 2004-05 were \$17,875,064. The excess, above the base of \$8,163,193, is \$9,711,871. This amount should be divided equally between the county and the State, resulting in \$4,855,935 excess due the State. The county has remitted a previous payment of \$5,092,380, causing an overremittance of \$236,445.

The qualified revenues reported for FY 2005-06 were \$19,329,978. The excess, above the base of \$8,163,193, is \$11,166,785. This amount should be divided equally between the county and the State, resulting in \$5,583,392 excess due the State. The county has remitted a previous payment of \$5,900,610, causing an overremittance of \$317,218.

The over- and underremittances had the following effect:

Account Title	Understated/ (Overstated)
Trial Court Improvement Fund–GC §77205:	
FY 2001-02	\$ (118,826)
FY 2002-03	(163,145)
FY 2003-04	150,231
FY 2004-05	(236,445)
FY 2005-06	(317,218)
County General Fund	(685,403)

Recommendation

The county should reduce remittances by \$685,403 to the State Treasurer and report on the remittance advice form (TC-31) a decrease to the Trial Court Improvement Fund–GC section 77205. The county should also make the corresponding account adjustments.

County's Response

We do not dispute the finding that overremittances occurred arising from the treatment of red light violation fines (Finding 1) and the distribution of traffic violator school collections (Finding 5). Since the computation of the total overremittance is affected by other findings, the actual amount will be determined when the audit is finalized.

The following corrective actions have been or will be taken:

1. The Court has modified its distribution system to segregate red-light violation distribution for collections after January 1, 2009.
2. For years beginning with FY 2008-09, the County will revise its 50/50 Excess Split Revenue computation to exclude red-light violation distributions.
3. Finding 1 includes the net overremittance of 50/50 Excess Split Revenues for the audit period. For later years:
 - a. The County has taken a credit for the overremittance of 50/50 Excess Split Revenue amounts for the post-audit period FY 2006-07 that resulted from the fact that the Court incorrectly distributed traffic violator school collections (Finding 5). The Court provided information to the County that allowed us to correctly exclude these revenues in its 50/50 Excess Split Revenue remittance for FY 2007-08.
 - b. The County will take credits in the future for the overremittance of 50/50 amounts related to red-light violations for fiscal years 2006-07 and 2007-08.

SCO's Comment

The county does not dispute the finding and the finding did not impact the court. The county has taken and will be taking corrective action to address the finding.

The finding remains unchanged.

Our review of additional documentation provided by the county resulted in the revision of Finding 1, increasing the overremittance from \$88,857 to \$685,403. The county agreed with our revision of Finding 1.

**FINDING 2—
Collection program
operating costs not
properly identified and
inequitably distributed
by the County Central
Collections Department
for Criminal and
Probation cases**

The county's Central Collections Department did not equitably distribute operating costs, totaling \$9,547,381 during the period of July 2001 through June 2006, from the county's comprehensive collection program delinquent collections for criminal and probation cases. The department determined the eligible program operating costs, and allocated the operating costs based on both current and delinquent monthly revenue collections. The operating costs should only be allocated based on delinquent monthly revenue collections, and their corresponding delinquent qualifying accounts.

In addition, the department did not allocate the operating costs to fees. Fees and restitution orders are not eligible for collection in a comprehensive collection program unless the fee or restitution order is associated with the underlying fine and forfeiture originally due and payable on an account for collection in a comprehensive collection program. If efforts were made to collect delinquent fees associated with the program, then the fees require operating cost allocations. Furthermore, Senate Bill (SB) 246 was passed and became effective on January 1, 2005. SB 246 changed the language of PC section 1463.007 to include fees.

PC section 1463.007 allows a county collecting entity, which implemented a comprehensive collection program that satisfies specific statutory requirements, to deduct program operating costs from program revenue collections. This section further allows a county collecting entity to distribute those amounts to the county treasury prior to distribution of those revenues to the state, court, county, and cities. The program must have a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operational costs.

The SCO's Comprehensive Collection Program Accounting Guidelines, dated May 1997, and revised June 2006, declares that cost recovery in the program is limited to the revenues collected from the accounts in the program. Therefore, any revenue collected from accounts that qualify for a comprehensive collection program may be deposited in the court or county treasury, and costs may be recovered before revenues are distributed to other governmental entities or programs. Consequently, the court or county must be able to distinguish revenues collected from qualifying accounts and their related costs separately from those accounts that do not meet the statutory requirements for collection in a comprehensive collection program. Estimated percentages are not an allowable method of substantiating the time an employee spends performing qualifying collections. The collections in excess of the related supportable operating costs are required to be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until qualifying revenues are available to fully recover those eligible costs. The victims' restitution orders cannot be reduced and are not part of revenues that can be used for cost recovery.

The department did not adhere to the SCO's Comprehensive Collection Program Accounting Guidelines.

The incorrect accounts distributions were corrected and had the following effect:

Account Title	Understated/ (Overstated)
State Accounts:	
State Penalty Fund	\$ 182,358
State Restitution Fund-PC §1202.4	172,007
State Indemnity Fund-PC §1463.18	15,277
State Trial Court Improvement Fund-GC §68090.8	36,348
State General Fund-PC §1465.7	78,637
State Court Security Fee-PC §1465.8	15,854
State Domestic Violence-PC §1203.097	(16,488)
State Sex Offender Fines-PC §290.3	250
State Health and Safety Fines-H&S §11502 and 11372.5	135
State Court Facilities Construction Fund-GC §70372(a)	75,161
State Accounts Total	<u>\$ 559,539</u>
County Accounts:	
25% Fines Account	\$ 6,379
75% Fines-County Arrest	(5,703)
75% Fines-City Arrest	26,723
Failure to Appear	(192)
Alcohol and Drug Prevention	63,209
Administrative Assessment	7,043
Central Collections-Admin/Inst	(75,787)
AIDS Education	138
Automated Fingerprint Identification	13,027
Blood Alcohol Test	31,062
Crime Lab	(576)
Penalty 30% Share	78,156
Criminal Justice Facilities Construction	64,997
Emergency Medical Services	64,018
Temporary Construction Fund	51,805
Health and Safety	135
Marshall	(729)
Serious Habitual Offenders	250
Crime Prevention	185
Probation Diversion Fee	(36,712)
Juvenile Court Fees	(118,120)
Legal Fees	(3,594)
Public Defender Fee	(173,871)
Probation Fees	(508,711)
County General Fund	(194,198)
County Accounts Total	<u>\$ (711,066)</u>
Court Account:	
Night Court	<u>\$ 1,244</u>

Account Title	Understated/ (Overstated)
City Accounts:	
Adelanto	\$ 1,695
Apple Valley	3,770
Barstow	133
Big Bear	4,580
Chino	722
Fontana	31,274
Hesperia	7,954
Montclair	8,471
Needles	5,251
Ontario	22,762
Rancho Cucamonga	26,209
Redlands	246
Rialto	7,954
San Bernardino	2,993
Upland	8,315
Victorville	17,954
City Accounts Total	<u>\$ 150,283</u>

Recommendation

The county should remit to the State Treasurer \$559,539 and report on the remittance advice (TC-31) increases of \$559,539 per the above-noted state accounts. The county should also make the corresponding account adjustments.

Additionally, the county comprehensive collection program operating costs need to be identified, matched, and offset against the program revenues. The operating costs should be allocated only to the delinquent accounts for which collections were made. The delinquent fees collected and associated with the program require operating cost allocations.

Furthermore, a reallocation should be made from July 2006, through the time period the system is corrected.

County's Response

Before we respond to each of the findings, we wish to make a comment on the manner in which the audit was conducted, particularly as it affects Findings 2 and 4. These findings relate to the method used by San Bernardino County and the Court to distribute receipts net of eligible delinquent collection costs. The findings are that distributions did not comply with State revenue distribution procedures. Specifically, eligible costs must be offset against delinquent revenues, then distributed. This method has been used for many years and was in fact in place when the last audit was conducted for the period July 1, 1996 through June 30, 2000. However, no finding was issued in that audit nor were we ever advised that our distribution method was in violation of law or policy and should be changed. We were understandably

surprised to be told after the recent audit that we were out of compliance and had been for at least 10 years. We were more surprised to find that the State auditor intended to disallow all program costs, especially since the auditor who conducted the most recent audit also conducted the previous audit.

This finding has three recommendations:

1. Disallow and distribute 100% of eligible program costs for the audit period;
2. Modify the distribution system to track delinquent and current revenues separately; offset eligible program costs only against delinquent revenues; and
3. Reallocate receipts from July 1, 2006 to the date the system is corrected so that costs are offset only against delinquent revenues.

Recommendation 1: The County disagrees with Recommendation 1 which disallows all eligible program costs. We request that the recommendation be removed from the finding. The County originally established a program that included both current and delinquent accounts. As long as the account paid according to the terms of the court order, activity was limited to the receipting of payments. Once the account became 60 days delinquent, collection activity was initiated. The program did allow the County to “identify and collect fines and forfeitures” meeting the stated requirements. As such, the County tracked the cost of collecting delinquent accounts separate from current accounts and deducted only those costs “from any revenue collected”. This practice was in place during the last State audit and was not referenced as a finding at that time.

Nevertheless, the County recognizes that current practices require us to segregate current and delinquent revenues and to offset eligible costs only against delinquent revenues. **Attachment 1 (“Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies”)** shows the breakdown of total revenues for each year of the audit, segregating current and delinquent collections. The County can provide additional support for these amounts if necessary. It is important to note that there was sufficient delinquent revenue from which to deduct costs. Total delinquent revenues during this time period was approximately \$27 million, far exceeding program costs of approximately \$9 million.

Recommendations 2 and 3: The County recognizes that revisions to Penal Code 1463.007 along with the Judicial Council’s “Guidelines and Standards for Cost Recovery” (2006) attempt to clarify that revenue from delinquent accounts is to be tracked separately and costs are to be deducted only from delinquent revenue. As a result, the County has put into place a mechanism to track revenue from delinquent accounts separately from revenue received from current accounts. Effective March 2008, the cost of collecting delinquent accounts is now deducted only from revenue collected on delinquent accounts.

The County, therefore, has implemented Recommendation 2 effective March 2008. The County further agrees to implement Recommendation 3 to reallocate receipts from July 1, 2006 up to the date the system was modified.

SCO's Comment

The county's assertion that the SCO auditor did not advise the county in the prior audit that the distribution methods utilized by the county were out of compliance is not an accurate statement. Granted the audit report did not include a finding to that effect; however, this was due to the circumstances during the prior audit.

During the prior audit for the period of July 1, 1996, through June 30, 2001, we noted that the county/court was using only one comprehensive collection program. The county was solely responsible for the comprehensive collection program. The SCO auditor noted deficiencies in the program which were not in accordance with PC section 1463.007. Specifically we noted problems with the usage of the Fee Variance FVR account, and cities cost allocations that were based on an arbitrary 10% of collections. This was due to a contractual agreement between the county and the cities. The audit report did include monetary and procedural recommendations to the county to correct the noted deficiencies.

During the current audit for the period of July 1, 2001, through June 30, 2006, the circumstances and county's operations were much different. We noted that the county was utilizing three comprehensive collections programs, as follows:

1. The comprehensive collection program maintained by the county's Central Collections Department for criminal and probation cases (Finding 2) was determined to be out of compliance with PC section 1463.007. The current program was not exactly the same program as in the prior audit period. The SCO auditor was not made aware that the program expenditures were allocated to both non-delinquent and delinquent collections. There is no authority that would allow the county to allocate expenditures to current revenue collections.
2. The comprehensive collection program maintained by the county's Central Collections Department and the Superior Court for traffic cases (Finding 4) that commenced during FY 2005-06 was determined to be out of compliance with Penal Code section 1463.007. This particular program was not utilized during the prior audit period.
3. The comprehensive collection program maintained by the Superior Court and titled Compliance Unit Cost was determined to be in compliance with PC section 1463.007. This program commenced during FY 2005-06 and was not in utilized during the prior audit period.

Due to the fact that the county and court maintained three different comprehensive collections programs, we performed a more detailed review to gain a better understanding of each program and to determine compliance with PC section 1463.007. As stated above, we noted that two of the three programs were not in compliance with the Penal Code.

The major deficiencies regarding the county's Central Collections Department comprehensive collections program for criminal and probation cases (Finding 2) are as follows:

- Attachment 1 shows a summary of program expenditures allocated to total delinquent revenue collections by fiscal year and not by qualifying accounts. Penal Code section 1463.007 mandates that this program be a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operating cost. Additionally, Chapter 5: Revenue Distribution, from the California State Controller's Manual of Accounting and Audit Guidelines for Trial Courts denotes that net revenues available for distribution should be allocated equitably to those accounts to which collections were made, and net revenues collected should be equitably prorated to each distribution component of the account. Further, it is necessary to provide adequate detail information and documentation that supports the application of the summary program expenditures in the attachment to the qualifying accounts. Without the required detail, we cannot ascertain the accuracy and adequacy of county's response.
- Effective January 1, 2005, the program expenditures must be allocated to fees. The county did not allocate expenditures to fees.

The county needs to redistribute the program expenditures to the program delinquent revenue collections. Additionally, effective January 1, 2005, the expenditures must also be allocated to fees.

The department provided a schedule identifying the delinquent revenue collections by fiscal year but did not provide a comparison of delinquent revenues to expenditures on a monthly basis or a redistribution of program expenditures to the delinquent revenue collections. The department needs to re-adjust all the inappropriate distributions made to the various state, county, and city accounts and perform the correct account distributions on allocations based solely on the delinquent revenue collections of the qualifying accounts. Additionally, the re-adjustments to the accounts must include allocations to fees effective January 1, 2005.

The department stated that it can provide additional information if necessary. The department needs to submit documentation comparing delinquent revenues to delinquent expenditures on a monthly basis and the allocation of the expenditures to the delinquent revenues by qualifying accounts. The inappropriate account expenditures distributions and subsequent recordings need to be cancelled and the correct expenditures allocations should then be applied to and recorded among the qualifying accounts.

The finding remains unchanged.

Reason for Revising Audit Finding

The county made re-computations and identified eligible program costs totaling \$9,547,381 and properly made the distributions to the program qualifying accounts. As a result, we revised Finding 2, decreasing the underremittance from \$4,693,176 to \$559,539. The county agreed with the revision to this finding.

**FINDING 3—
Underremitted
fines and penalties
(Central Collections
Department)**

As noted in our prior audit, the Central Collections Department incorrectly distributed base fines and penalties for cases where the total ordered bail did not equal the designated amount on the automated system distribution chart. For those cases, the variance between total bail and the distribution chart is distributed as a Penal Code section 1463.001 fine subject to county arrest. The account is titled Fee Variance. This results in county fines being overstated, city fines being understated, and penalties being understated. The allowable 2% automated accounting and case processing fee was properly deducted.

Penal Code section 1463.004(a) states that, when an automated case processing system requires percentages, calculations may be employed to establish the components of total fines or forfeitures, provided the aggregate monthly distributions resulting from the calculations are the same as would be produced by strict observance of the statutory provisions.

Failure to properly distribute the fee variance was noted in the SCO audit for the period of July 1, 1996, through June 30, 2001. The department has established procedures to reduce the distributions made to the fee variance account for current cases.

The inappropriate distribution to the fee variance account had the following effect:

<u>Account Title</u>	<u>Understated/ (Overstated)</u>
State Penalty Fund	\$ 10,634
City Fine Revenue Accounts:	
Adelanto	141
Barstow	123
Colton	514
Redlands	439
Fontana	889
Chino	679
Chino Hills	228
Yucaipa	108
Loma Linda	120
Montclair	308
Ontario	1,304
Apple Valley	142

Account Title	Understated/ (Overstated)
City Fine Revenue Accounts (continued)	
Hesperia	307
Rancho Cucamonga	507
San Bernardino	1,372
Upland	738
Victorville	324
Rialto	306
Highland	120
Yucca Valley	127
County Accounts:	
County Penalty Assessment–30%	4,559
County Criminal Justice Facilities Fund	3,800
County Temporary Construction Fund	3,041
County Automated Fingerprint Fund	760
County Emergency Medical Fund	3,041
County Arrest Fines	(34,631)

Recommendation

The county should remit \$10,634 to the State Treasurer and report on the remittance advice (TC-31) an increase of \$10,634 to the state penalty fund. The county should also make the corresponding account adjustments.

The fee variance is an ineligible account and should be deleted from the department chart of accounts.

County's Response

The County implemented the procedural changes referenced in this finding in 2003. We do not dispute the finding but we request that the recommendation be waived due to immateriality and the excessive cost that would be required to comply. As required by the last audit, effective March 2003, the County changed procedures and no longer uses the Fee Variance (FVR) account. Instead, the County has implemented a process using calculations to determine the proper components of fines, etc. meeting the statutory provisions.

SCO's Comment

The county agrees with the finding but states that the monetary amount should not be redistributed based on materiality.

We consider the \$34,631 overpayment to the County Arrest Fines account as material.

The finding remains unchanged.

**FINDING 4—
Inequitably distributed
collection program
operating costs and
collections received not
identified for traffic
cases**

The San Bernardino Superior Court and the San Bernardino County Central Collections Department did not identify the delinquent collections of \$4,456,438 by qualifying accounts during FY 2005-06 for traffic cases. The court and the county agreed to establish a program for delinquent collections with corresponding disallowances from the accounts of both commissions and eligible program operating costs. There was no written contract agreement for delinquent collections of traffic cases between the court and the county during the period. The collections were not matched to the program-eligible operating costs of \$1,349,697 on a consolidated basis and/or a monthly basis.

Furthermore, there were additional immaterial unidentifiable collections throughout the period. The unidentified collections were classified as the difference in monthly totals between the court's Offense Tracking System and the county's Colombia Ultimate Business System.

A system of deducting commissions with the remaining balance subject to allocations leads to inequitable distribution of the program operating costs and such allocation system is ineligible.

Penal Code section 1463.007 allows a court collecting entity, which implemented a Comprehensive Court Collection Program that satisfies specific statutory requirements, to deduct program operating costs from program revenue collections. This section further allows a court collecting entity to distribute those amounts to the county treasury prior to distribution of those revenues to the state, court, county, and cities. The program must have a separate and distinct revenue collection activity that identifies total collections received from qualifying accounts and their related operational costs.

The SCO's Comprehensive Collection Program Accounting Guidelines, states that cost recovery in the program is limited to the revenues collected from the accounts in the program. Therefore, any revenue collected from accounts that qualify for a comprehensive collection program may be deposited in the court account or county treasury, and costs may be recovered before revenues are distributed to other governmental entities or programs. Consequently, the court or county must be able to distinguish between revenues collected from qualifying accounts, and their related costs, separately from those accounts that do not meet the statutory requirements for collection in a comprehensive collection program. The collections in excess of the related supportable operating costs are required to be redistributed monthly. However, if the program's operating costs for a given month exceed revenues collected, the excess costs may be carried forward until qualifying revenues are available to fully recover those eligible costs. Eligible operating costs of a comprehensive collection program may include, but are not limited to: salaries, wages, benefits, services and supplies, contractual collection costs, and indirect costs allocable to collection activities of a comprehensive collection program.

The incorrect accounts distributions were corrected and had the following effect:

Account Title	Understated/ (Overstated)
State Accounts:	
State Penalty Fund	\$ 50,775
DNA Identification Fund–GC §76104.5	4,838
State Trial Court Improvement Fund–GC §68090.8	5,927
State General Fund–PC §1465.7	41,533
State General Fund–PC §1465.8	(17,600)
State Restitution Fund–PC §1202.4	(5,316)
State Proof of Insurance–PC §1463.22(c)	(2,814)
State Proof of Insurance–PC §1463.22(b)	(844)
State Penalty Fund–VC §40611	(148)
State Court Facilities Construction Fund–GC §70372(a)	27,262
Total, State Accounts	<u>\$ 103,613</u>
County Accounts:	
Emergency Medical Services Fund	\$ 14,576
Penalty 30% Share	21,732
County Vehicle Fines	52,025
Automated Fingerprint Identification	3,617
DNA Identification Fund–GC §76104.6	2,084
Criminal Justice Facilities Construction	19,828
Temporary Construction Fund	16,175
County Proof of Insurance	(4,912)
County General Fund	(27,955)
Total, County Accounts	<u>\$ 97,170</u>
Court Accounts:	
Installment A/C Fee	\$ (7,883)
Civil Assessment	(231,431)
PC §1463.007 Cost Adjustment	(20,374)
Total, Court Accounts	<u>\$ (259,688)</u>
City Accounts:	
Adelanto	\$ 166
Apple Valley	558
Barstow	613
Big Bear	503
Chino	5,233
Chino Hills	2,053
Colton	2,818
Fontana	3,643
Grand Terrace	815
Hesperia	908
Highland	483
Loma Linda	6,913
Montclair	5,482
Needles	166
Ontario	(2,641)
Rancho Cucamonga	3,548

Account Title	Understated/ (Overstated)
City Accounts (continued):	
Redlands	1,084
Rialto	837
San Bernardino	10,101
Twenty Nine Palms	288
Upland	10,939
Victorville	3,356
Yucaipa	1,175
California Traffic Safety	(136)
Total, City Accounts	<u>\$ 58,905</u>

Recommendation

The court should remit to the State Treasurer \$103,613 and report on the remittance advice (TC-31) increases of \$103,613 per the above-noted state accounts. The court should also make the corresponding account adjustments. A reallocation should be made from July 2006, through the time period the system is corrected.

Additionally, the court and the county should implement procedures to identify the delinquent collections by qualifying accounts. The operating costs then should be allocated to the delinquent qualifying accounts.

Furthermore, the unidentifiable collections between the court's Office Tracking System and the county's Colombia Ultimate Business System need to be identified, reconciled, and distributed in a timely manner.

County's Response

Finding 4 includes two recommendations that pertain to the County:

1. \$891,298 recorded as "commission" revenue to the County should be disallowed and distributed to recipient agencies.
2. The unidentifiable collections between the Court's Office Tracking System and the County's California Ultimate Business system need to be reconciled and distributed in a timely manner.

Finding 4 also includes one recommendation that applies only to the Court, although the wording refers to both the Court and the County. That recommendation echoes Finding 2 and requires that the Court and the County identify current and delinquent collections by qualifying accounts and offset costs only against delinquent accounts.

Since all County traffic collections are for delinquent accounts this recommendation does not apply to the County. The County remitted revenues on delinquent traffic accounts to the Court and the Court distributed all traffic revenues, current and delinquent. The Court will separately respond to this part of Finding 4.

Recommendation 1: The County disagrees with Recommendation 1. The County did not take a commission in addition to actual costs as suggested in the finding. With two exceptions, the County offset actual

costs but continued to break it out on revenue transfers to the Court as COMMISSION and PC 1463.007 COST ADJ (**Attachment 2—“Summary of Revenue and Cost for Traffic Collections July 2005 through June 2006”**). The exceptions are for the months of February and March 2006 when actual costs were less than the computed commission. The difference between actual program cost for FY 2005-06 and revenues recorded by Central Collections is \$10,652, an immaterial amount that would be costly and difficult to identify and distribute. The County requests that this recommendation be removed from Finding 4.

Recommendation 2: In respect to the “unidentifiable collections between the Court and the County”, this was the result of unreconciled timing differences. To correct this, procedures were put in place as of February 2006 to reconcile these discrepancies on a timely basis. The total net undistributed revenue for July 2005 through January 2006 is \$16,975.13 and, as stated in Finding 4, is immaterial. Because of immateriality and the excessive cost that would be required to research and distribute this amount, we request that the State waive any requirement to identify and redistribute these revenues.

Court’s Response

When AB139 was enacted, our court had no mechanism to accurately separate the delinquent payments from the current payments in our case management system. In addition, the County of San Bernardino, Central Collections Department, began remitting only the net delinquent collections to the Court, after recovering their costs from the revenue received. Therefore, the Court had no choice but to develop a reasonable method to allocate the County's costs against the delinquent revenue until such time as the Court's case management system could be updated to provide this information. From October 2005 to January 2006, we utilized the same methodology that was developed by a State Controller's Office auditor, from a previous State Revenue audit, where differences were allocated based on a formula to spread revenue over all qualifying agency accounts. This was the most reasonable and cost effective method we had to allocate these costs.

Then in February 2006, we received additional information from a study conducted by Shasta Superior Court, whereby collection costs were allocated against monthly gross revenue. The study showed immaterial differences between the current and delinquent payment allocations for all qualifying agency accounts. This appeared to be a more reasonable approach than our first method of allocation and we implemented this methodology from February 2006 to August 2006.

During this time, the Court partnered with the Riverside Superior Court and was able to develop a new approach for querying the delinquent payments from our case management system. This new methodology was implemented in September 2006 and we continue to allocate collection costs against delinquent revenue only, on a monthly basis, based on these queries for delinquent payments.

The allocation we performed was reasonable, based on the circumstances stated above. Reallocation of any amount would be immaterial and cost prohibitive to perform the re-allocation.

SCO's Comment

See statements regarding the county's Central Collections Department and the Superior Court comprehensive collections programs under Finding 2.

The specific issues regarding the county's Central Collections Department and the Superior Court comprehensive collections program for traffic cases are as follows:

- The department and the court need to identify the delinquent collections by qualifying accounts. Attachment 2 does not identify delinquent collections by qualifying accounts.
- The program-eligible operating costs must be matched and allocated to the program delinquent collections by qualifying accounts. The county is not in compliance with Penal Code section 1463.007 because it used a fixed 20% commission (Attachment 3) instead of actual costs matched, and qualifying accounts.

The department and/or the court need to identify the revenue collections by qualifying accounts and allocate the program eligible operating costs.

The department provided a schedule identifying the delinquent revenue collections by month in totals and not by qualifying accounts and no redistribution of eligible operating costs to the qualifying accounts was presented.

The court stated that they use an allocation methodology previously used by the state auditor in the prior audit. The state auditor previously used a methodology in the prior audit to redistribute the Fee Variance (FVR) account which dealt with both current and non-current fines and was an account solely relating to automated systems monetary rounding of calculations and percentages. The comprehensive collections program has specific requirements such as allocations only to delinquent non-current collections. A general methodology formula designated to redistribute the prior audit period Fee Variance FVR account distributions is not proper for usage in distributing collection program expenditures.

The finding remains unchanged.

Reason for Revising Audit Finding

The court made re-computations and identified eligible program costs totaling \$1,349,747 and properly made the distributions to the program qualifying accounts. The county presented a revised schedule substantiating the county commissions and the commissions; also, the court deductions did not exceed the total eligible collection costs. As a result, we revised Finding 4, decreasing the courts' underremittance from \$271,954 to \$103,613 and eliminated county's underremittance of \$154,868. The court agreed with the revision to this finding.

**FINDING 5—
Underremitted
penalties from
traffic violator
school cases**

The San Bernardino Superior Court did not properly distribute Traffic Violator School cases for the period of January 2004 through June 2006. There was no distribution to the State Court Facilities Construction Fund as required by VC section 42007. Furthermore, GC section 77205 requires that the \$2 distribution to the County Construction Funds be deducted solely from the county 23% traffic violator school fee account. The incorrect distributions understated the penalties, and overstated the county's 77% traffic violator school fee account, and the county 23% traffic violator school fee account. The error was due to improper computerized distribution formulas for traffic violator school cases.

Effective January 1, 2004, for all traffic school violations, VC section 42007 requires the San Bernardino Superior Court to include a \$3.00 penalty for every fine, penalty, or forfeiture imposed and collected to be deposited in the State Court Facilities Construction Fund per Government Code section 70372(a).

The inappropriate distributions for traffic violator school fees affect the revenues reported to the State Trial Court Improvement Fund under the MOE formula pursuant to Government Code section 77205. In addition, the inappropriate distributions from the penalties had the following effect:

Account Title	Understated/ (Overstated)
State Court Facility Construction Fund—GC §70372(a)	\$ 2,322,665
County Traffic Violator School Account	(2,322,665)

Recommendation

The court should remit \$2,322,665 to the State Treasurer and report on the remittance advice (TC-31) an increase of \$2,322,665 to the State Court Facilities Construction Fund—GC section 70372(a). The court should also make the corresponding account adjustments. Additionally, a reallocation should be made from July 2006, through the time period the system is corrected.

The court should revise the traffic violator school distribution formulas for conformance with the required VC section 42007 distributions. Furthermore, the court and the county should review the formulas for compliance with GC section 77205 computations.

County's Response

We do not dispute this finding. The following corrective actions were taken:

1. The Court corrected its distribution for collections after June 1, 2008 (also please see action #5 below).
2. To correct the distribution for the audit period, on August 14, 2008 we remitted \$2,322,665 to the State Court Facilities Construction Fund—GC 70372(a) on **TC-31 number 36 0561 (Attachment 4)** as recommended in this finding.

3. To correct the distribution for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we remitted \$1,265,979.51 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0562 (Attachment 5)**.
4. To correct the 50/50 Excess Split Revenues remittance for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we submitted **TC-31 36 0560 (Attachment 6)** to report \$6,130,521.70 in FY 2007-08 50/50 Excess Split revenues.
5. To correctly report remittance for the post-audit period July 1, 2007 through May 31, 2008, on August 14, 2008 we remitted \$1,332,268.08 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0563 (Attachment 7)**. (This TC-31 erroneously noted that the correction was for the period 7/2007 through 6/2008. It should have stated that the correction was for the period 7/2007 through 5/2008. June 2008 collections were correctly remitted with our routine monthly **TC-31 36 0558 – Attachment 8**).

Court's Response

The San Bernardino Superior Court concurs with this finding and we have adjusted our accounts accordingly. The County of San Bernardino transferred the underremitted collections, in the amount of \$2,322,665.00, to the state on August 14, 2008. In addition, all Traffic Violator School revenue, collected for the State Court Facilities Construction Fund, has been reallocated, pursuant to this finding, for collections from July 2006 thru May 2008. The County of San Bernardino adjusted their state remittance for this as well on August 14, 2008. Beginning in June 2008, we are calculating this distribution manually, on a monthly basis, until we can revise the Court Case Management System to calculate this properly.

SCO's Comment

The county and the court concur with the finding and have remitted the questioned amounts to the State Treasurer.

FINDING 6— Underremitted evidence of financial responsibility fines

The Superior Court did not make the required distributions to the County General Fund, the State General Fund, and the State Transportation Fund for evidence-of-financial-responsibility fines for the audit period. The Court performs the distributions based on collections and not on convictions. The court personnel indicated they were not aware of the statutory changes and requirements affecting the distribution of evidence-of-financial-responsibility fines.

A \$30.50 fee on each conviction of a proof-of-financial-responsibility-violation identified under PC section 16028 is required to be distributed per conviction in this manner: \$17.50 to the County General Fund pursuant to PC section 1463.22(a), \$10, to the State General Fund pursuant to PC section 1463.22(c), and \$3 to the State Transportation Fund pursuant to PC section 1463.22(b).

Failure to make the required distributions causes the distributions to not be made in a timely manner to the State and the county evidence-of-financial responsibility accounts. Measuring the dollar effect did not appear to be either material or cost effective due to the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should establish formal procedures to ensure that evidence-of-financial-responsibility fines are correctly distributed in accordance with statutory requirements in a timely manner.

Court's Response

The San Bernardino Superior Court **has** made all required distributions to the County General Fund, the State General Fund and the State Transportation Fund for evidence of financial responsibility fines for the audit period. The language in PC 1463.22 on which the State Controller's Office relies is descriptive and not the operative language of the statute. The statute reads, "Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) *for each conviction* ... shall be deposited by the county treasurer in a special account..." The language of subsection (b) differs only in that "three dollars (\$3)" has been substituted for "seventeen dollars and fifty cents (\$17.50)". Subsection (c) is also similar; requiring that, "ten dollars (\$10) *upon the conviction of* or upon the forfeiture of bail from shall be deposited by the county treasurer in a special account..." The use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

SCO's Comment

The court states that the use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

PC sections 1463.22 (a)(b)(c), and the SCO's Manual of Accounting and Audit Guidelines for Trial Courts clearly designate that the distributions should be made for fines assessed upon conviction.

The finding remains unchanged.

FINDING 7— Incorrect distribution priority on Driving Under the Influence Cases

The court prorated collections on driving-under-the-influence (DUI) cases in a manner that inappropriately gave a distribution priority to various fines, penalties, and fees over the distributions to the State Victim Indemnity Fund. The first \$20 of fines collected on DUI cases needs to be distributed to the State Victim Indemnity Fund in accordance with Penal Code section 1463.18. Failure to make the required priority distribution causes distributions to the State Victim Indemnity Fund to be understated when an account becomes delinquent and unpaid. Measuring the dollar effect did not appear to be either material or cost effective due

to the difficulty in identifying and redistributing the various accounts. The error occurred because the formulas on the court's management information system (MIS) did not designate the proper distribution priorities.

Effective September 30, 2002, PC section 1203.1d requires a mandatory prioritization in the distribution of all installment payments as follows:

1. Restitution orders to victims
2. 20% State surcharge
3. Fines, penalty assessments, and restitution fines
4. Other reimbursable costs

The State Victim Indemnity Fund distributions have a priority under Category 3.

Recommendation

The court should revise the MIS formulas on distribution priorities for DUI cases.

Court's Response

The San Bernardino Superior Court concurs with this finding and we have revised the distribution priorities in the Court Case Management System to reflect an additional priority level for the State Victim Indemnity Fund, pursuant to PC 1463.18, effective June 25, 2008.

SCO's Comment

The court agrees with this finding.

**Attachment A—
County Auditor-Controller's Response
to Draft Audit Report**

AUDITOR/CONTROLLER-RECORDER COUNTY CLERK



COUNTY OF SAN BERNARDINO

AUDITOR/CONTROLLER • 222 West Hospitality Lane, Fourth Floor
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LARRY WALKER
Auditor/Controller-Recorder
County Clerk

ELIZABETH A. STARBUCK, CGFM
Assistant Auditor/Controller-Recorder
Assistant County Clerk

February 4, 2009

Mr. Greg Brummels
Local Government Audit Bureau
Division of Audits
State Controller's Office
3301 "C" Street, Suite 712
Sacramento, CA 95816

Dear Mr. Brummels:

We are in receipt of the draft audit report of the San Bernardino County Court Revenues for the period from July 1, 2001 through June 30, 2006. We have reviewed the audit report and have compiled our comments to each finding that applies to the San Bernardino County offices of the Treasurer-Tax Collector and Auditor/Controller-Recorder. The San Bernardino Court will respond to the audit report in a separate letter.

Before we respond to each of the findings, we wish to make a comment on the manner in which the audit was conducted, particularly as it affects Findings 2 and 4. These findings relate to the method used by San Bernardino County and the Court to distribute receipts net of eligible delinquent collection costs. The findings are that distributions did not comply with State revenue distribution procedures. Specifically, eligible costs must be offset against delinquent revenues, then distributed and gross current revenues must be separately tracked and distributed. Until recently the County and the Court offset eligible costs against total revenues and distributed the net amount. This method has been used for many years and was in fact in place when the last audit was conducted for the period July 1, 1996 through June 30, 2000. However, no finding was issued in that audit nor were we ever advised that our distribution method was in violation of law or policy and should be changed. We were understandably surprised to be told after the recent audit that we were out of compliance and had been for at least 10 years. We were more surprised to find that the State auditor intended to disallow all program costs, especially since the auditor who conducted the most recent audit also conducted the previous audit. When asked, the auditor agreed that the distribution had been out of compliance during the previous audit period and that he had decided not to make a finding. Had we been made aware that our distribution methodology was noncompliant and that a future audit could include findings on this subject, we might have been able to implement a new methodology during the audit period and might have been in compliance years sooner.

With regard to specific findings, the County Offices of the Auditor/Controller-Recorder and Treasurer/Tax Collector have reviewed the report and offer the following comments:

FINDING 1—Overremitted excess of qualified fines, fees, and penalties.

We do not dispute the finding that overremittances occurred arising from the treatment of red light violation fines (Finding 1) and the distribution of traffic violator school collections (Finding 5). Since the computation of the total overremittance is affected by other findings, the actual amount will be determined when the audit is finalized.

The following corrective actions have been or will be taken:

1. The Court has modified its distribution system to segregate red-light violation distributions for collections after January 1, 2009.
2. For years beginning with FY 2008-09, the County will revise its 50/50 Excess Split Revenue computation to exclude red-light violation distributions.
3. Finding 1 includes the net overremittance of 50/50 Excess Split Revenues for the audit period. For later years:
 - a. The County has taken a credit for the overremittance of 50/50 Excess Split Revenue amounts for the post-audit period FY 2006-07 that resulted from the fact that the Court incorrectly distributed traffic violator school collections (Finding 5). The Court provided information to the County that allowed us to correctly exclude these revenues in its 50/50 Excess Split Revenue remittance for FY 2007-08.
 - b. The County will take credits in the future for the overremittance of 50/50 amounts related to red-light violations for fiscal years 2006-07 and 2007-08

FINDING 2 – Collection program operating costs not properly identified and inequitably distributed by the County Central Collections Department for Criminal and Probation cases.

This finding has three recommendations:

1. Disallow and distribute 100% of eligible program costs for the audit period;
2. Modify the distribution system to track delinquent and current revenues separately; offset eligible program costs only against delinquent revenues; and
3. Reallocate receipts from July 1, 2006 to the date the system is corrected so that costs are offset only against delinquent revenues.

Recommendations 2 and 3: The County recognizes that revisions to Penal Code 1463.007 along with the Judicial Council's "Guidelines and Standards for Cost Recovery" (2006) attempt to clarify that revenue from delinquent accounts is to be tracked separately and costs are to be deducted only from delinquent revenue. As a result, the County has put into place a mechanism to track revenue from delinquent accounts separately from revenue received from current accounts. Effective March

2008, the cost of collecting delinquent accounts is now deducted only from revenue collected on delinquent accounts.

The County, therefore, has implemented Recommendation 2 effective March 2008. The County further agrees to implement Recommendation 3 to reallocate receipts from July 1, 2006 up to the date the system was modified.

Recommendation 1: The County disagrees with Recommendation 1 which disallows all eligible program costs. We request that the recommendation be removed from the finding. The County originally established a program that included both current and delinquent accounts. As long as the account paid according to the terms of the court order, activity was limited to the receipting of payments. Once the account became 60 days delinquent, collection activity was initiated. This program did allow the County to "identify and collect fines and forfeitures" meeting the stated requirements. As such, the County tracked the cost of collecting delinquent accounts separate from current accounts and deducted only those costs "from any revenue collected". This practice was in place during the last State audit and was not referenced as a finding at that time.

Nevertheless, the County recognizes that current practices require us to segregate current and delinquent revenues and to offset eligible costs only against delinquent revenues. **Attachment 1 ("Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies")** shows the breakdown of total revenues for each year of the audit, segregating current and delinquent collections. The County can provide additional support for these amounts if necessary. It is important to note that there was sufficient delinquent revenue from which to deduct costs. Total delinquent revenue during this time period was approximately \$27 million, far exceeding program costs of approximately \$9 million.

FINDING 3 – Underremitted fines and penalties (Central Collections Department)

The County implemented the procedural changes referenced in this finding in 2003. We do not dispute the finding but we request that the recommendation be waived due to immateriality and the excessive cost that would be required to comply. As required by the last audit, effective March 2003, the County changed procedures and no longer uses the Fee Variance (FVR) account. Instead, the County has implemented a process using calculations to determine the proper components of fines, etc. meeting the statutory provisions.

Finding 3 stems from accounts set up prior to March 2003 using the old FVR account to manage orders that did not fall within the bail schedule amounts. It has become economically impractical to attempt to go back and correct these cases. As of January 22, 2009, the County still has 1,182 cases with a total outstanding balance of \$7,684.94 in the FVR bucket. The cost to manually adjust 1,182 cases would exceed the balance remaining in the FVR bucket. In addition, there has been a steady decline in revenue collected from the FVR bucket. In fact, in Fiscal Year 05/06, the total amount collected was merely \$213.00.

Based on the fact that as of March 2003, the County modified their procedures and discontinued the use of the Fee Variance account, that to go back and correct the final existing cases that have the FVR account would be cost prohibitive, and that the total amount of revenue collected in the FVR bucket has become immaterial, the County believes the recommendation should be waived and that the County should be allowed to continue their program on a go-forward basis.

FINDING 4 – Inequitably distributed collection program operating costs and collections received not identified for traffic cases.

Finding 4 includes two recommendations that pertain to the County:

1. \$891,298 recorded as "commission" revenue to the County should be disallowed and distributed to recipient agencies.
2. The unidentifiable collections between the Court's Office Tracking System and the County's California Ultimate Business system need to be reconciled and distributed in a timely manner.

Finding 4 also includes one recommendation that applies only to the Court, although the wording refers to both the Court and the County. That recommendation echoes Finding 2 and requires that the Court and the County identify current and delinquent collections by qualifying accounts and offset costs only against delinquent accounts.

Since all County traffic collections are for delinquent accounts this recommendation does not apply to the County. The County remitted revenues on delinquent traffic accounts to the Court and the Court distributed all traffic revenues, current and delinquent. The Court will separately respond to this part of Finding 4.

Recommendation 1: The County disagrees with Recommendation 1. The County did not take a commission in addition to actual costs as suggested in the finding. With two exceptions, the County offset actual costs but continued to break it out on revenue transfers to the Court as COMMISSION and PC 1463.007 COST ADJ (**Attachment 2— "Summary of Revenue and Cost for Traffic Collections July 2005 through June 2006"**). The exceptions are for the months of February and March 2006 when actual costs were less than the computed commission. The difference between actual program cost for FY 2005-06 and revenues recorded by Central Collections is \$10,652, an immaterial amount that would be costly and difficult to identify and distribute. The County requests that this recommendation be removed from Finding 4.

Background: On September 21, 1999 the County and Court entered into a contract for the collection of delinquent traffic infractions for the period January 1, 2000 through December 31, 2004. The contract was subsequently amended twice to extend the contract term to February 28, 2005 and then to June 30, 2005 (**Attachment 3, Contract 99-905**). The County and Court failed to reach agreement on negotiation of contract

terms prior to expiration of the contract and the Court discontinued assignment of cases to County for collections as of June 30, 2005.

SB940 requires an MOU between the Superior Court and the County to enter into an enhanced collection program. Upon expiration of our contract, no MOU existed. Furthermore, SB940 requires each Superior Court and County to develop a cooperative plan to implement a comprehensive collection program and report to the Judicial Council on the effectiveness of collections. PC 1463.010 provides in part: In the event a Court and County are unwilling or unable to enter into a cooperative plan pursuant to this section, the Court or the County may request the continuation of negotiations with mediation assistance as mutually agreed upon and provided by the Administrative Office of the Courts (AOC) and the California Association of Counties (CSAC).

Since a cooperative agreement had not been reached, the County continued to honor the terms of the expired contract. The County continued collections of existing accounts and continued to negotiate with the Court. A new contract was eventually entered into on August 15, 2006. Since the County acted reasonably and in good faith during the negotiation period, we request that this recommendation be removed.

Recommendation 2: In respect to the "unidentifiable collections between the Court and the County", this was the result of unreconciled timing differences. To correct this, procedures were put in place as of February 2006 to reconcile these discrepancies on a timely basis. The total net undistributed revenue for July 2005 through January 2006 is \$16,975.13 and, as stated in Finding 4, is immaterial. Because of immateriality and the excessive cost that would be required to research and distribute this amount, we request that the State waive any requirement to identify and redistribute these revenues.

FINDING 5—Underremitted penalties from traffic violator school cases.

We do not dispute this finding. The following corrective actions were taken:

1. The Court corrected its distribution for collections after June 1, 2008 (also please see action #5 below).
2. To correct the distribution for the audit period, on August 14, 2008 we remitted \$2,322,665 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0561 (Attachment 4)** as recommended in this finding. The Court and County followed these steps to correct the distribution:
 - a. On August 13, 2008 the County transferred \$2,322,665 from the County General Fund to the Court's clearing account to allow the Court to correct its revenue distribution.
 - b. On August 13, 2008, the Court then transferred \$2,322,665 from their clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.

- c. The County then remitted \$2,322,665 to the State on **TC-31 number 36 0561** as stated above.
3. To correct the distribution for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we remitted \$1,265,979.51 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0562 (Attachment 5)**. The Court and County followed these steps to correct the distribution:
 - a. On August 13, 2008, the County transferred \$1,265,979.51 from the County general fund to the Court's clearing account to allow the Court to correct its revenue distribution.
 - b. On August 13, 2008, the Court then transferred \$1,265,979.51 from its clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.
 - c. The County then remitted \$1,265,979.51 to the State on **TC-31 number 36 0562** as stated above.
4. To correct the 50/50 Excess Split Revenues remittance for the post-audit period July 1, 2006 through June 30, 2007, on August 14, 2008 we submitted **TC-31 36 0560 (Attachment 6)** to report \$6,130,521.70 in FY 2007-08 50/50 Excess Split revenues. We reported corrections to the County's FY 2006-07 50/50 remittance as follows:
 - a. We took a \$487,402.11 credit arising from the Courts incorrect distribution of traffic violator school cases cited in this finding (per VC 42007).
 - b. We also reported an additional \$62,784.26 for the underremittance arising from our previous exclusion of the \$2 county construction funds as cited in this finding (per GC 77205)
5. To correctly report remittances for the post-audit period July 1, 2007 through May, 31, 2008, on August 14, 2008 we remitted \$1,332,268.08 to the State Court Facilities Construction Fund-GC 70372(a) on **TC-31 number 36 0563 (Attachment 7)**. (This TC-31 erroneously noted that the correction was for the period 7/2007 through 6/2008. It should have stated that the correction was for the period 7/2007 through 5/2008. June 2008 collections were correctly remitted with our routine monthly **TC-31 36 0558 – Attachment 8**). The Court and County followed these steps to correct the distribution:
 - a. On August 13, 2008, the County transferred \$1,332,268.08 from the County general fund to the Court's clearing account, to allow the Court to correct its revenue distribution.
 - b. On August 13, 2008, the Court then transferred \$1,332,268.08 from its clearing account into the County trust fund used for the State Court Facilities Construction Fund remittance.
 - c. The County then remitted \$1,332,268.08 to the State on **TC-31 number 36 0563**, as stated above.

Ltr/Greg Brummels
February 3, 2009
Page 7

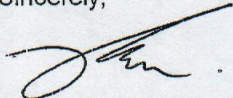
FINDING 6 – Underremitted evidence of financial responsibility fines.

FINDING 7 – Incorrect distribution priority on Driving Under the Influence Cases

Findings 6 and 7 apply only to the Court so the County will not respond. The Court will respond separately to these findings.

If you have any questions please contact Kathleen Kirkhofer at 909-386-8877.

Sincerely,



HOWARD M. OCHI, CPA
Chief Deputy Auditor

HMO:mah

cc: Gary McBride, County Administrative Office
Trudy Raymundo, County Administrative Office
Monique Amis, County Administrative Office
Annette Kerber, Treasurer/Tax Collector
Bruce Robert, Treasurer/Tax Collector
Oscar Valdez, Treasurer/Tax Collector
Yvonne Pritchard, Superior Court
Julie Underwood, Superior Court
Kathleen Kirkhofer, Auditor/Controller-Recorder

Summary of Recalculation of Costs Applied to Delinquent Revenues for Misdemeanors and Felonies

	FY 01/02		FY 02/03		FY 03/04		FY 04/05		FY 05/06		Total	
	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current	Delinquent	Current
Total Revenue	6,049,134.92		6,285,322.42		6,399,593.03		7,973,735.98		5,972,050.27		32,579,808.52	
Delinquent/Current Revenue	5,894,694.22	154,450.70	5,785,799.59	489,522.83	4,781,506.93	1,618,087.00	5,796,605.15	2,175,131.83	4,567,759.26	1,304,291.01	26,638,355.15	5,741,453.37
Total Costs **	1,515,942.84	—	1,689,948.53	—	1,912,150.47	—	2,319,171.35	—	2,283,568.55	—	9,700,782.84	—
Net Delinquent/Current Revenue	4,378,741.28	154,450.70	4,105,850.06	489,522.83	2,869,356.46	1,618,087.00	3,479,433.80	2,175,131.83	2,304,190.71	1,304,291.01	17,137,572.31	5,741,453.37
Total Disbursements	4,533,191.89		4,595,372.89		4,487,413.46		5,654,665.63		3,608,481.72		22,879,025.68	

** Total Costs represent the cost of collection activity only on delinquent accounts. These costs are shown to be deducted from revenue collected only on delinquent accounts.

Please Note: The audit report lists total costs of \$9,547,381. This was based on the original calculation of costs, although records show this number to be \$9,570,664 (a difference of \$23,283). However, there were several adjustments to cost in FY 01/02, 02/03 and 03/04 bringing total costs to \$9,700,783. Supporting schedules are available for review.

San Bernardino County
Treasurer-Tax Collector/Central Collections
State Audit on Court Revenues
Date Prepared: February 1, 2009

Summary Of Revenue and Cost for Traffic Collections July 2006 through June 2009

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
Total Collections													
Cash Paid to Collections	358,298.00	328,047.31	223,967.57	245,141.72	185,390.13	212,055.64	248,405.60	328,091.59	597,747.11	192,892.03	400,903.72	216,028.65	3,534,769.07
Cash Paid to Court	70,648.30	78,243.91	76,541.84	94,575.15	65,042.66	47,114.10	89,494.75	132,118.48	143,158.55	84,915.39	109,124.77	89,072.65	1,080,050.55
Total Collections	428,946.30	406,291.22	300,509.41	339,716.87	250,432.79	259,169.74	337,900.35	460,210.07	740,905.66	277,807.42	510,028.49	305,101.30	4,614,819.62
Cost Vs Commission													
Commissions (per Court)	80,201.78	78,913.16	59,044.08	66,472.34	48,675.89	49,902.15	65,256.62	89,339.04	142,199.65	53,035.45	98,554.53	59,704.96	891,299.65
Total Cost of Collection	123,782.00	184,399.00	139,100.00	92,395.00	92,524.00	100,163.00	107,177.00	87,597.00	133,300.00	81,556.00	100,867.00	99,241.00	1,339,095.00
Total Cost Exceeding Commission	43,580.22	105,485.84	80,055.92	25,926.66	43,848.11	50,260.85	41,920.38	0.00	0.00	28,520.55	2,312.47	36,536.04	438,447.04
Total Cost Claimed (Greater of Cost or Commission)	123,782.00	184,399.00	139,100.00	92,395.00	92,524.00	100,163.00	107,177.00	89,339.04	142,199.65	81,556.00	100,867.00	96,241.00	1,349,746.69
Transfer to Court													
Cash Paid to Collections	358,298.00	328,047.31	223,967.57	245,141.72	185,390.13	212,055.64	248,405.60	328,091.59	597,747.11	192,892.03	400,903.72	216,028.65	3,534,769.07
Less: Commission	80,201.78	78,913.16	59,044.08	66,472.34	48,675.89	49,902.15	65,256.62	89,339.04	142,199.65	53,035.45	98,554.53	59,704.96	891,299.65
Less: PC 1463.007 COST ADJ (Cost Exceeding Commission)	0.00	0.00	0.00	0.00	43,848.11	50,260.85	41,920.38	0.00	0.00	28,520.55	2,312.47	36,536.04	203,398.40
Less: Prior Period COST ADJ	0.00	0.00	0.00	177,913.01	77,135.93	0.00	0.00	0.00	0.00	0.00	0.00	0.00	255,048.94
Less: Installment Fees	7,066.24	5,015.31	3,979.50	2,667.54	2,526.00	2,374.00	2,625.50	3,899.38	7,269.91	3,308.86	4,790.80	2,881.09	48,405.13
Less: Legal Fees	1,160.93	1,282.64	695.61	854.33	838.51	1,133.89	1,483.68	1,743.80	3,624.69	1,551.16	2,671.51	2,039.53	19,080.28
Less: Marshal Fees	4,171.86	4,829.41	2,440.84	3,121.68	3,155.85	4,076.17	5,362.45	6,152.08	12,187.71	4,969.47	7,777.50	5,286.71	63,343.73
Less: NSF Fees	563.71	423.86	212.00	447.75	247.50	188.62	257.53	506.37	691.72	283.63	514.00	360.46	4,697.15
Unidentifiable Collections	(8,719.54)	(5,231.03)	(3,862.50)	6,334.93	1,284.88	16,889.06	10,279.33	0.00	0.00	0.00	0.00	0.00	16,975.13
Distribution to Courts	256,413.94	232,551.90	153,733.04	0.00	10,247.52	121,009.02	141,778.77	224,450.92	431,773.43	101,021.91	284,292.91	109,207.86	2,088,471.22

Traffic infractions are assigned to Central Collections once they are 10 days delinquent. Therefore, cost may be offset against ALL revenue collected under this program.

In every month, there was sufficient delinquent revenue to cover monthly costs.

During this timeframe, costs were determined to be the greater of actual cost or commission. In February and March, commission was taken. In all other months, total cost was taken.

In July, August and September, only commission was taken. However, effective October, prior period adjustments were made to recoup total cost exceeding commission as follows:

Prior Period Cost Offset in October was \$177,913.01. \$43,580.22 from July, \$105,485.84 from August, and \$28,846.85 for partial September

Prior Period Cost Offset in November was \$77,135.93. \$51,208.67 balance from September and \$25,926.66 for October.

Unidentifiable Collections from July through January were due to unreconciled timing differences. The total unidentifiable collections is \$16,975.13.

PLEASE NOTE THE FOLLOWING IMMATERIAL DISCREPANCIES WITH THE AUDIT REPORT:

Total Collections: The audit report list total collections of \$4,456,438. Central Collections reports collections of \$4,614,820.

Total Cost: The audit report list total costs of \$1,349,697. Central Collections reports total costs of \$1,349,747.

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

Central Collections; TTX; Courts;
Agree 99-905

September 21, 1999

FROM: **RICHARD LARSEN**
Treasurer-Tax Collector

SUBJECT: **COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS**

RECOMMENDATION:

1. Approve Collection Services Agreement between the County of San Bernardino and San Bernardino Trial Courts for collections of delinquent traffic fines, forfeitures and assessments
2. Authorize the addition of 10 Collections Officers, one (1) Supervising Collections Officer, two (2) Fiscal Clerk II's, one (1) Accountant II and one (1) Collections Clerk, subject to classification review
3. Approve the following personnel actions:
 - a. Establish the position of Assistant Director of Collections, Exempt, Benefit Group C, and approve range 76 as a Minute Order Amendment to the Salary Ordinance.
 - b. Authorize addition of Position 71703, Assistant Director of Collections Delete position 00342 when vacant
 - c. Read title only of proposed amendment to Ordinance 1904 placing Assistant Director of Collections, position no 71703 into the Unclassified Service; waive reading of entire text and continue to Tuesday, September 28, 1999 at 10:00 a.m. for adoption
 - d. Delete the classification of Chief of Collections when vacant
4. Authorize an increase of \$575,945 in expenditures and revenues in the Treasurer's budget for FY 1999-2000, as detailed in the Financial Section below (four votes required).

BACKGROUND INFORMATION: AB 233 (1997), which became effective January 1, 1998, fundamentally changed court system funding in California. Funding for courts is now provided primarily from the State Trial Court Trust Fund, which consists of monies from the State General Fund, civil filing fee revenue and a fixed contribution from each county. The fixed contribution from counties is based on court expenses paid and revenues received during Fiscal Year 1994/95.

Page 1 of 3 pages

cc: Treasurer/Tax Collector-Mathers
w/agree
Court Admin -Kentner w/agree
Auditor w/agree
SBD w/agree.
Human Res -Musselman (4)
Central Payroll
SBPEA
CAO-Clay/Gomez
Co Counsel-Stafford/Hartzell
File w/agree

lw

Rev 07/97

Record of Action of the Board of Supervisors			
AGREEMENT 99-905			
APPROVE REGS # 2, 3 a, b & d & 4 &			
CONTINUE ORDINANCE TO TUES., 9/28/99			
@ 10 A.M. FOR FINAL ADOPTION			
BOARD OF SUPERVISORS			
COUNTY OF SAN BERNARDINO			
MOTION	SECOND	MOVE	NAY
	2		
EARLENE SPROAT, CLERK OF THE BOARD			
BY	[Signature]		
DATE	September 24, 1999		

Attachment 3
Page 1 of 14

BOARD OF SUPERVISORS
COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS
September 21, 1999
Page 2

AB 233 also contained certain incentives for counties and the courts to place greater emphasis on the collection of court-imposed fines and fees, and specifically delinquent traffic fines. For example, generally any fines collected by the courts which exceed the amount of monies the County is required to contribute to the State Trial Court Trust Fund will be split equally between the County and State. Additionally, certain costs, including those for a "comprehensive collection program", may be deducted from the baseline amount remitted by the County to the State.

In light of these changes, the County Administrative Office and officials from the Superior Courts agreed to the need for a study that would examine current methods and procedures used by the courts for collection of civil and traffic fines. This study, approved by the Board of Supervisors last year, revealed that there are significant increased civil and traffic fine revenues that may be realized through enhanced collection efforts and greater coordination between certain court and county functions. Additionally, there are other efficiencies that can be achieved by the courts contracting with the County for collection services, which will benefit both the County and courts. These include the automation of judicial orders for probationary accounts, the use of remittance processing to reduce the courts' staffing needs and generation of additional service fees.

Since the completion of the study, the courts and county have negotiated the specifics of the implementation of the main recommendation of the study, the transfer of collection responsibilities from the courts which have used an outside collection agency to the county's Central Collections Department. The proposed Collections Service Agreement will provide for the transfer of delinquent traffic fine collections, which currently amounts to \$35 million in accounts receivables annually, to the county. Based on Central Collections' demonstrated performance in the area of judicial collections, increased use of technology and reduced commission costs realized through the use of county forces, the study estimated that an additional \$5 million in fine collections will be collected annually through this plan. Of this amount, the county has estimated that roughly \$3 million in annual revenues will be retained by the courts and county (with the remainder going to the State and other local agencies).

To effect this transfer, the County's Central Collections Department will need to increase its staffing of collection officers and associated support staff. These positions will be hired in phases as accounts are received from the courts. Additionally, a new position of Assistant Director of Collections is being requested, as part of a reorganization of the Central Collections Department. This new position will supervise all functions of the department including the accounting and cashiering functions. This position will also oversee the new indigent defense fee program and collections for other outside agencies, such as booking fee collections for cities, which is currently being negotiated. The previous position of Chief of Collections will be deleted. All of these costs will be borne through the commission rate of 20% charged by the county to each jurisdiction receiving traffic fines, as provided by this agreement and allowed by State law. Thus, there is no net cost to the county for these staffing costs, nor do these costs affect the estimated \$3 million in additional annual collections to the county and courts.

The agreement also requires that a minimum of 25% of the local (County) share of excess fine and forfeiture revenue as defined in Government Code Section 77205 shall be deposited into an interest bearing fund designated for courthouse facilities. These monies could then be used to offset any future debt service for court construction. The remainder of any enhanced revenues would be retained by the County as discretionary revenue.

9/21/99 lw #59

BOARD OF SUPERVISORS
COLLECTIONS OF DELINQUENT ACCOUNTS FOR COURTS
September 21, 1999
Page 3

The agreement has been approved by the Superior Courts' Joint Administrative Committee (JAC) and signed by the courts' Presiding Judge. The term of the agreement runs through December 31, 2004. Prior to this date, either party may request modification to the agreement or may terminate the agreement. In the case of termination of the contract, the additional collection officer positions and support staff requested in this action would be terminated unless collection contracts have been secured with other agencies during this time; or in some cases, the positions may be used to supplement existing State-reimbursed collection staff, if workloads warrant this.

FLSA Status of New Class: Exempt

REVIEW BY OTHERS: The proposed actions have been reviewed by the County Administrative Office (Valerie Clay and Art Gomez, 8/31/99), Human Resources (Christine Ure and Janna Ramos, 9/2/99) and County Counsel (Dawn Stafford, 9/2/99). Deputy County Counsel W. Andrew Hartzell prepared the ordinance.

FINANCIAL IMPACT: There is no net cost to the county resulting from these actions. All additional staff and associated costs will be funded through the commission rate charged by the department back to participating jurisdictions and the State. The increased traffic fine and forfeiture revenue generated by the transfer of collection responsibilities to Central Collections is non-departmental revenue available to fund discretionary programs of the County.

The following increases to appropriations and revenues are required to Central Collections' budget:

AAA-TCC-CRT	Regular Salaries	1010	\$261,475
AAA-TCC-CRT	Retirement-General	1110	\$ 12,043
AAA-TCC-CRT	Indemnification	1135	\$ 10,110
AAA-TCC-CRT	Social Security	1225	\$ 3,789
AAA-TCC-CRT	Workers Compensation	1235	\$ 1,565
AAA-TCC-CRT	Cafeteria Plan/Other	1310	\$ 34,321
AAA-TCC-CRT	Special Dept Expense	2135	\$ 70,519
AAA-TCC-CRT	Postage-Direct	2310	\$102,640
AAA-TCC-CRT	Temporary Help	2335	\$ 21,008
AAA-TCC-CRT	Other Professional Svcs	2445	\$ 58,475
AAA-TCC-CRT	Collection Fees	9610	\$575,945

SUPERVISORIAL DISTRICT(S): All

PRESENTER: RICHARD N. LARSEN

****Testimony is taken.**

9/21/99 lw #59

FOR COUNTY USE ONLY



County of San Bernardino

FAS

CONTRACT TRANSMITTAL

E	<input checked="" type="checkbox"/> New	Vendor Code		Dept	Contract Number
M	<input type="checkbox"/> Change			SC	99-905
X	<input type="checkbox"/> Cancel			A	
County Department		Dept	Orgn	Contractor's License No	
TREASURER-TAX COLLECTOR		TCC	CRT		
County Department Contract Representative		Ph	Ext	Amount of Contract	
MARK MATHERS		387-6372		N/A	
Fund	Dept	Organization	Appr	Obj/Rev Source	Activity
N/A	N/A	N/A	N/A	N/A	N/A
Commodity Code			Estimated Payment Total by Fiscal Year		
Project Name			FY	Amount	I/D
Court Collections Agreement					

CONTRACTOR Superior Courts of the County of San Bernardino

Birth Date _____ Federal ID No. or Social Security No _____

Contractor's Representative Tressa Kentner, Court Executive Officer

Address 172 W. Third St., 2nd Floor, San Bernardino, CA Phone 387-6401

Nature of Contract: (Briefly describe the general terms of the contract)

Collection Services Agreement between the County of San Bernardino and Superior Courts for collection of delinquent traffic fines, forfeitures and assessments for the period from January 1, 2000 through December 31, 2004

Attach this transmittal to all contracts not prepared on the "Standard Contract" form.

Approved as to Legal Form	Reviewed as to Affirmative Action	Reviewed for Processing
<u>[Signature]</u>	<u>N/A</u>	<u>[Signature]</u>
County Counsel		Agency Administrator/CAO
Date <u>9/2/99</u>	Date	Date

**COLLECTION SERVICES AGREEMENT
BETWEEN THE
COUNTY OF SAN BERNARDINO AND
SAN BERNARDINO SUPERIOR COURTS**

This agreement is entered into this 24 day of September 1999, between the County of San Bernardino (hereinafter "County") and the Superior Courts of San Bernardino County (hereinafter "Courts") In consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. **TERM:** This Agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Courts' Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through December 31, 2004.
2. **SCOPE:** County agrees to provide services for the collection of delinquent traffic fines, forfeitures and civil assessments arising from violations of Vehicle Code §40508(a) and (b) for the Courts. Such collections shall include collections of the original bail amount plus any penalty assessments, civil assessments and all other revenues relating to a Failure to Appear (FTA) or Failure to Pay (FTP).
3. **COMPENSATION:** County agrees to accept and the Courts agree to pay a commission sum of twenty percent (20%) of the total value of the account for monies actually collected. Such commission shall be remitted via two funding sources. For accounts which meet the State's criteria under Penal Code §1463 007, the County shall deduct all eligible costs from any revenues collected prior to making any distribution of revenues to other governmental entities required by any other provision of law. For the County's costs that do not meet such criteria, these costs shall be deducted from civil assessment fees collected by the County on a monthly basis. In no event, however, shall the total commission charged by the County, via these two funding sources, exceed twenty percent (20%).

The County agrees that a minimum of 25% of the local (County) share of excess fine and forfeiture revenue as defined in Government Code Section 77205 shall be deposited into an interest bearing fund designated for courthouse facilities. It is the intent of the Courts and the County to develop collaborative plans for the projects funded from the above referenced fund. Additionally, the Courts shall review projects and make recommendations to the Board of Supervisors prior to projects being funded from these reserved revenues.
4. **COMMUNICATION:** It is the intention of the Court that all collection procedures be conducted in a lawful manner with due regard for the integrity of the Court's orders and respect for the legal rights of each defendant. The Courts shall also strive to adopt uniform procedures throughout the Courts as it relates to collection issues.

To meet that end, the Courts and County shall form a Collections Oversight Committee, which shall meet periodically to define standards and provide direction to the County regarding the collection of delinquent traffic fines, related civil assessments, and restitution.

on traffic infractions. The Collections Oversight Committee shall consist of three Judges appointed by the Presiding Judge, a representative of Court Administration, a representative of Probation and a representative of County Collections. The Committee reserves approval authority over procedures established by County Collections for implementing court-related collections related to delinquent traffic fine collections. However, any changes in procedures that would reduce revenues or increase costs will be reached by unanimity of the Collections Oversight Committee members. If unanimity is not reached, each side has the right to terminate this contract as described in Section 15.

5. **REPORTS** County shall provide the Courts with its standard reports. Additional reports may be provided to the Courts as available and as requested by the Courts.
6. **COURTS' RESPONSIBILITIES** The Courts shall appoint a liaison person for administrative matters related to collections. The Courts shall also appoint court coordinators for contact at each participating court. The Courts will forward via automation all appropriate accounts to County upon the account becoming delinquent. The Courts will endeavor to provide information on delinquent accounts to the County within seven (7) days of delinquency.
7. **COUNTY'S ADDITIONAL RESPONSIBILITIES** County will prepare and mail all ten-day delinquency notices. Those accounts requesting a hearing before a judicial officer shall be referred to the Courts.
8. **COLLECTION ACTIVITY AND TECHNIQUES** Upon the assignment of an account, County will engage in only those collection activities as permitted by law and in accordance with the criteria for a comprehensive collections program as defined by Penal Code §1463 007. The County shall be allowed to use any and all collection techniques or procedures permissible by law. These activities shall include wage garnishments, participation in the Franchise Tax Board's collections programs and the reporting of delinquent accounts to credit bureaus. The County may arrange installment payment plans based upon the debtors' current income and ability to pay.
9. **RECORD RETENTION AND INSPECTION** County agrees that the Courts shall have the right to examine, inspect or audit any transaction or activity on its accounts which have been assigned to County without advance notice.
10. **AUTOMATION** The County's estimated staffing requirements and attendant compensation necessary to implement this Agreement are predicated on the understanding that all case information for accounts will be electronically transmitted to the County, without any manual intervention required by the County. The Courts shall endeavor to provide the electronic transfer of the following data: (1) all current cases managed by GC Services, (2) cases held by the Court but not yet assigned to GC Services, (3) all new cases received by the Courts after the effective date of this Agreement, (4) all modified cases, (5) all inactive cases that the County requests to work, and (6) any other relevant case data required by the County except as prohibited by statute. The automation of the transmission of collection data for new FTA and FTP cases to the Central Collections' collection systems shall be completed by the effective date of this Agreement. The cost of re-programming the Courts' systems to facilitate this transfer will be paid either as a cost of a comprehensive collections program or by civil assessment monies.

- 11 **PROGRAM ENHANCEMENTS** County and Courts agree that it is in the best interest of both parties to continue to improve the collections program through enhancements to current operations. Enhancements potentially include the installation of new equipment and implementations to systems and procedures designed to enhance collections or customer service to clients
12. **TRANSITION:** It is agreed that the Courts should be reimbursed via a per transaction fee for at-the-window FTA and FTP payments collected by court personnel. During the transition period prior to January 1, 2000, the Courts and County will meet to set the level of this fee.
- 13 **OTHER CHANGES AND AMENDMENTS:** The parties to this agreement reserve the right to modify, change or amend the provisions of this agreement as may become necessary. Any revisions must be in writing, negotiated and mutually agreed upon between the parties. If, after one (1) year of the effective date of this Agreement and upon June 30 of each succeeding fiscal year, the County is not able to recoup its costs of collection, as shown by an audit of the County Auditor, the commission rate shall be adjusted, after the County and the Courts have met, to adequately compensate County for its actual costs
- 14 **CHANGES DUE TO LAW:** The County and Courts agree that any changes to the law related to the collection of traffic fines enacted since the effective date of this Agreement will necessitate the renegotiation of all or parts of this Agreement related thereto
15. **TERMINATION** Either party may terminate this Agreement by providing written notice ninety (90) days prior to the end of the County's fiscal year. Upon receipt of said notice, the contract will then terminate at the end of the County's fiscal year in which the notice was given.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this 21st day of September 1999

COUNTY OF SAN BERNARDINO
("County")

SUPERIOR COURTS OF CALIFORNIA,
COUNTY OF SAN BERNARDINO
("Courts")

By: Jon D. Mikels
Jon D. Mikels, Chairman
Date: SEP 21 1999 Agree. 99-905

By: [Signature]
Date: 8/30/99

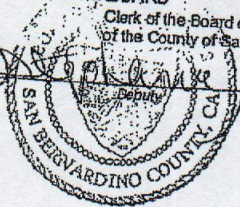
SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD:

EARLENE SPROAT
Chair of the Board of Supervisors
of the County of San Bernardino
By: [Signature]
Deputy
SAN BERNARDINO COUNTY

Bernini, Christopher, Chairman, Board of Supervisors
 Bill Postmus, Vice-Chairman,
 Dated: SEP 30 2003

Clerk of the Board of Supervisors
of the County of San Bernardino

By



By [Signature]
(Authorized signature - sign in blue ink)

Name J. MICHAEL WELCH
(Print or type name of person signing contract)

Title PRESIDING JUDGE
(Print or Type)
Dated:

Dated: _____ (Print or Type)

Address _____

County Counsel

Date 9/16/03

Reviewed by Contract Compliance

Date _____

Presented to BOS for Signature

Department Head

Date _____

Auditor/Controller-Recorder Use Only

1. <input type="checkbox"/> CONFIDENTIAL 2. <input type="checkbox"/> SECRET 3. <input type="checkbox"/> TOP SECRET		4. <input type="checkbox"/> NOFORN 5. <input type="checkbox"/> NOFORN/NOPI 6. <input type="checkbox"/> NOFORN/NOPI/NOPI
7. <input type="checkbox"/> NOFORN/NOPI/NOPI/NOPI 8. <input type="checkbox"/> NOFORN/NOPI/NOPI/NOPI/NOPI	9. <input type="checkbox"/> NOFORN/NOPI/NOPI/NOPI/NOPI/NOPI 10. <input type="checkbox"/> NOFORN/NOPI/NOPI/NOPI/NOPI/NOPI/NOPI	

Page of

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

December 21, 2004

FROM: RICHARD N. LARSEN
Treasurer-Tax Collector

SUBJECT: AMENDMENT TO CONTRACT NO. 99-905 WITH SUPERIOR COURT OF
CALIFORNIA, COUNTY OF SAN BERNARDINO

RECOMMENDATIONS: Approve Amendment No. 2 to Contract No. 99-905 with the Superior Court of California, County of San Bernardino to extend the term of the current contract from December 31, 2004 to February 28, 2005 for the collection of delinquent traffic fines, forfeitures and assessments

BACKGROUND INFORMATION: On September 21, 1999, the Board of Supervisors approved Contract No. 99-905 between the Superior Court of California, County of San Bernardino and the Treasurer-Tax Collector's office from January 1, 2000 through December 31, 2004. Under the terms of this agreement, the Central Collections division of the Treasurer-Tax Collector's office collects delinquent traffic fines, forfeitures and assessments for the Superior Court of California, County of San Bernardino.

The Treasurer-Tax Collector and Superior Court are currently negotiating a new agreement for the services. Approval of this amendment will allow staff sufficient time to prepare and negotiate a new contract while continuing to provide the services.

REVIEW BY OTHERS: The proposed action was reviewed and approved as to form by County Counsel (Paul St John, Deputy County Counsel, 387-5437) on December 9, 2004; and the County Administrative Office (Tracy Lindsay, Administrative Analyst, 387-4659) on December 9, 2004.

FINANCIAL IMPACT: There is no net cost to the County resulting from this action.

COST REDUCTION REVIEW: The County Administrative Office has reviewed this agenda item and concurs with the Department's proposal since the collection services provided bring in revenue for the county.

SUPERVISORIAL DISTRICT(S): All


PRESENTER: Richard N. Larsen, Treasurer-Tax Collector, 387-6383

cc: Treasurer/Tax Collector-Cline
w/agreement
Court Admin -Kentner w/agree
c/o Treasurer/Tax Collector
Auditor-Valdez w/agree.
IDS w/agreement
Risk Management
Treasurer/Tax Coll.-Larsen
Co Counsel-St John
CAO Lindsay
File w/agreement

ml

Rev 07/97

Record of Action of the Board of Supervisors
AGREEMENT NO. 99-905 A-2
APPROVED (CONSENT CALENDAR)
BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO
MOTION
1 MOVE 2 3 4 5
J. RENEE BASTAN, CLERK OF THE BOARD
BY *[Signature]*
DATED: December 23, 2004





County of San Bernardino

FAS

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	SC	Dept	A	Contract Number	99-905 A-2
County Department		Dept		Orgn	Contractor's License No	
Treasurer-Tax Collector		TTC		CRT		
County Department Contract Representative		Telephone		Total Contract Amount		
Rocky Cilne		387-5616				
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date		Contract End Date		Original Amount
						Amendment Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
AAA	TTC	CRT		9810		
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Project Name				Estimated Payment Total by Fiscal Year		
Collections Agreement				FY	Amount	I/D
				FY	Amount	I/D
				FY	Amount	I/D
				FY	Amount	I/D

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name
Superior Court of California, County of San Bernardino hereinafter called Court
Address
172 W. Third St., 2nd Floor

San Bernardino, CA.
Telephone
387-6401
Federal ID No. or Social Security No

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

Second Amendment to Contract No. 99-905

Contract No 99-905 is hereby amended by extending the term of the contract through February 28, 2005, as follows:

- 1 TERM: This agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Court's Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through February 28, 2005

Except as amended, all other terms and conditions of this contract remain as stated therein

Auditor/Controller-Recorder Use Only	
<input checked="" type="checkbox"/> Contract Database	<input checked="" type="checkbox"/> FAS
Input Date	Keyed By

Page 1 of 2

Attachment 3
Page 10 of 14

COUNTY OF SAN BERNARDINO

Dennis Hansberger
Dennis Hansberger, Chairman, Board of Supervisors

Dated: DEC 21 2004

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD OF SUPERVISORS

By Mary Jo [Signature]
Clerk of the Board of Supervisors
County of San Bernardino

Approved as to Legal Form

[Signature]
County Counsel

Date Dec. 14, 2004

Reviewed by Contract Compliance

Date _____

Superior Court of California, County of San Bernardino
(Print or type name of corporation, company, contractor, etc.)

By [Signature]
(Authorized signature - sign in blue ink)

Name Honorable Peter Norell
(Print or type name of person signing contract)

Title Presiding Judge
(Print or Type)

Dated: DEC 13 2004

Address 172 W. Third St., 2nd Floor
San Bernardino, CA

Presented to BOS for Signature

[Signature]
Department Head

Date 12/14/04

Auditor/Controller-Recorder Use Only

Contract Date	12/14/04
Input Date	
Revised	

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

March 29, 2005

FROM: RICHARD N. LARSEN
Treasurer-Tax Collector/Public Administrator

SUBJECT: AMENDMENT TO CONTRACT NO. 99-905 WITH SUPERIOR COURT OF SAN BERNARDINO COUNTY

RECOMMENDATIONS: Approve Amendment No. 3 to Contract No. 99-905 with the Superior Court of San Bernardino County to extend the term of the current contract from February 28, 2005 to June 30, 2005 for the collection of delinquent traffic fines, forfeitures and assessments

BACKGROUND INFORMATION: On September 21, 1999 the Board of Supervisors approved Contract No. 99-905 between the Superior Court of San Bernardino County and the Treasurer-Tax Collector's office for a term of three years, from January 1, 2000 through December 31, 2004. Then on December 21, 2004 the Board of Supervisors approved an amendment to that agreement to extend the term to February 28, 2005 for preparation of a new contract. The Treasurer-Tax Collector and Superior Court are currently negotiating a new agreement for the services. Approval of this amendment will allow staff sufficient time to prepare and negotiate a new contract while continuing to provide the services

Under the terms of this agreement, the Central Collections division of the Treasurer-Tax Collector's office collects delinquent traffic fines, forfeitures and assessments for the Superior Court of San Bernardino County

REVIEW BY OTHERS: The proposed action was reviewed and approved as to form by County Counsel (Paul St. John, Deputy County Counsel, 387-5437) on March 16, 2005; and the County Administrative Office (Tracy Lindsay, Administrative Analyst, 387-4659) on March 17, 2005

FINANCIAL IMPACT: Approval of the extended term of this contract will allow us to maintain the current revenue stream in traffic collections

COST REDUCTION REVIEW: The County Administrative Office has reviewed this agenda item and concurs with the Department's proposal since the collection services provided bring in revenue for the county

SUPERVISORIAL DISTRICT(S): All

PRESENTER: Richard N. Larsen, Treasurer-Tax Collector/Public Administrator, 387-6383

cc: T-I/C-Cline w/ agree
Contractor c/o Dept w/ agree
IDS w/ agree
Auditor-Valdez w/ agree
Risk Management
T-T/C-Larsen
County Counsel-St John
CAO-Lindsay
File w/ agree

jrh

Record of Action of the Board of Supervisors
Agreement No. 99-905 A-3

APPROVED (CONSENT CALENDAR)				
BOARD OF SUPERVISORS				
COUNTY OF SAN BERNARDINO				
MOTION	ABSENT	AYE	SECONDS	ABSENT
	1	2	3	4
J. RENEE BASTIAN, CLERK OF THE BOARD				
BY <i>[Signature]</i>				
DATED: March 29, 2005				

Rev 07/97

ITEM 039

Attachment 3
Page 12 of 14



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New <input type="checkbox"/> Change <input type="checkbox"/> Cancel	Vendor Code	SC	Dept	A	Contract Number	99-905 A-3
County Department		Dept	Orgn	Contractor's License No		
Treasurer: Tax Collector		TTC	CRT			
County Department Contract Representative		Telephone		Total Contract Amount		
Rocky Cline		387-5615				
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
AAA	TTC	CRT		9610		
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Fund	Dept	Organization	Appr	Obj/Rev Source	GRC/PROJ/JOB No	Amount
Project Name			Estimated Payment Total by Fiscal Year			
Collections Agreement			FY	Amount	I/D	FY Amount I/D

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name Superior Court of San Bernardino County hereinafter called Courts
Address 172 W. Third St., 2nd Floor
San Bernardino, CA.
Telephone 387-6401 Federal ID No. or Social Security No. _____

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications and addenda, if any.)

Third Amendment to Contract No. 99-905

Contract No 99-905 is hereby amended by extending the term of the contract through June 30, 2005, as follows:

- 1 TERM: This agreement shall become effective at such time as it has been approved and executed by both the Chairman of the Board of Supervisors of the County of San Bernardino and the Courts' Presiding Judge. The Agreement shall cover collections from the period commencing on January 1, 2000 through June 30, 2005.

Except as amended, all other terms and conditions of this contract remain as stated therein.

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Page ____ of ____

COUNTY OF SAN BERNARDINO


Paul Bieme, Chairman, Board of Supervisors
Paul Bieme, Vice Chairman

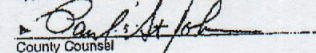
Dated: March 2, 2005

SIGNED AND CERTIFIED TO BE A TRUE AND CORRECT COPY OF THIS
DOCUMENT BY THE CLERK OF THE BOARD OF SUPERVISORS
CHAIRMAN OF THE BOARD OF SUPERVISORS

County of San Bernardino

By 
CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF SAN BERNARDINO

Approved as to Legal Form


County Counsel

Date 3/21/05

Reviewed by Contract Compliance



Date

Presented to BCS for Signature


Department Head

Date 3-21-05

Superior Court of San Bernardino County
(Print or type name of corporation, company, contractor, etc.)

By 
(Authorized signature - sign in blue ink)

Name Honorable Peter Norell
(Print or type name of person signing contract)

Title Presiding Judge

Dated: 3/22/05 (Print or Type)

Address 172 W. Third St., 2nd Floor

San Bernardino, CA

Auditor/Controller-Recorder Use Only

Contract Database	Input Date	Keyed By

Page ___ of ___

REMITTANCE ADVISE NUMBER

CO 36 0561

Attachment 5

CO# MONTH

ATTACHMENT NUMBER
CO 36 0560

REPORT TO STATE CONTROLLER OF REMITTANCE TO STATE TREASURER - TC-31

COUNTY NAME - NUMBER: San Bernardino - 36
 COLLECTIONS FOR THE MONTH OF (Mo / Yr): July 2007 / June 2008

STATE CONTROLLER'S USE ONLY						CODE SECTION & DESCRIPTION	
FUND	AGENCY	FY	REV / OBJ	AMOUNT	PC		
0 0 0 1	0 2 5 0		1 6 1 4 0 3			General Fund - Penal Code 1465 7; AB 3000 - 20% surcharge on criminal fines	
0 0 0 1	0 8 2 0		1 3 1 5 0 0			General Fund - Health & Safety 11372 5 - Criminalistics Lab Fee; Health & Safety 11502 - State Fines	
0 0 0 1	9 9 9 0		1 3 0 9 0 1			General Fund - Penal Code 290 3 - First Conviction	
0 0 0 1	9 9 9 0		1 3 0 9 0 2			General Fund - Penal Code 290 3 - Second & Subsequent Convictions	
0 0 0 1	9 9 9 0		1 6 0 5 0 0			General Fund - Health & Safety 11489 - Asset Forfeitures (24%)	
0 0 0 1	9 9 9 0		1 6 4 0 0 0			General Fund - Penal Code 1463 22(c) - Uninsured Motorists (\$10 Conviction)	
0 0 0 1	9 9 9 0		1 6 4 2 0 1			General Fund - Vehicle Code 40225(d)	
0 0 0 1	9 9 9 0		1 6 4 3 0 1			General Fund - Health & Safety 105257 - State penalty on lead abatement fines	
0 0 4 4	2 7 4 0		1 6 4 0 0 0			Motor Vehicle Account - Penal Code 1463 22(b) - Uninsured motorists (\$3 conviction)	
0 1 0 2	3 5 4 0		1 2 5 2 0 0			State Fire Marshall Lic/Cert Fund - Health & Safety 12105 - Explosive Permit Fees	
0 1 5 9	0 2 5 0		1 6 4 6 0 2			Trial Court Improvement Fund - Government Code 68090 8 - 2% Automation	
0 1 5 9	0 2 5 0		1 6 4 6 0 3	6,130,521.70		Trial Court Improvement Fund - GC 77205 - 50% Excess	
0 2 0 0	3 6 0 0		1 2 5 6 0 0			Fish & Game Preservation Fund - Fish & Game 711 4 - Environmental Document Filing Fees	
0 2 0 0	3 6 0 0		1 3 1 0 0 0			Fish & Game Preservation Fund - Fish & Game 13003 - Fish & Game Preservation Fund	
0 2 0 0	3 6 0 0		1 3 1 3 0 0			Fish & Game Preservation Fund - Fish & Game 12021 13006 - Secret Witness Program	
0 2 1 4	1 8 7 0		1 3 0 8 0 0			Restitution Fund - Penal Code 1202 4 W&I 730 6	
0 2 1 4	1 8 7 0		1 3 0 8 0 3			Restitution Fund - Penal Code 1001 90 - Diversion Restitution Fee	
0 2 1 4	1 8 7 0		1 3 0 8 0 6			Restitution Fund - Penal Code 1202 44 - Conditional Sentence Restitution Fines	
0 2 1 4	1 8 7 0		1 6 4 4 0 0			Restitution Fund - Penal Code 1463 18 - DUI Fines	
				(487,402.11)		FY07 Over payment of Trial Court Improvement Fund - GC 77205 (Code Section VC 42007 / GC70372)	
				62,784.26		FY07 Under payment of Trial Court Improvement Fund - GC 77205 (Code Section VC 42007)	

TOTAL 5,705,903.86

TO STATE CONTROLLER: I hereby certify that the foregoing report, as it relates to the agency I represent, is a correct statement of the State's share of collections deposited for the month stated above in accordance with Section 68101 of the Government Code. Remittance has been made to the State Treasurer.

(SIGNED)	<i>Brenda Peña</i>	DATE	8/14/08
OFFICIAL TITLE	Deputy Auditor/Controller - Recorder		
CONTACT PERSON	Brenda Peña		
PHONE	(909) 386-8931	EMAIL ADDRESS	bpena@acr.sbcounty.gov
ADDRESS	222 W. Hospitality Lane, San Bernardino, CA 92415-0018		

STATE TREASURER'S ENDORSEMENT

--

STATE OF CALIF. DEPT. OF REVENUE

REMITTANCE ADVISE NUMBER

CO36 0558

COUNTY NAME - NUMBER: San Bernardino . 36
COLLECTIONS FOR THE MONTH OF (Mo / Yr): June / 2008

TO STATE CONTROLLER: I hereby certify that the foregoing report as it relates to the agency I represent is a correct statement of the State's share of collections deposited for the month stated above in accordance with Section 68101 of the Government Code. Remittance has been made to the State Treasurer.

STATE OF CALIF

**Attachment B—
Court's Response to
Draft Audit Report**

DRAFT



**Superior Court of California
County of San Bernardino**

Tressa S. Kentner
Court Executive Officer

303 West Third Street, Fourth Floor
San Bernardino, CA 92415-0302

(909) 382-3531
Fax: (909) 382-7680

February 4, 2009

Mr. Steven Mar
Chief, Local Government Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Re: State Controller's Office audit of Court revenues for the period of July 1, 2001 thru
June 30, 2006

Dear Mr. Mar:

The Superior Court of California, County of San Bernardino, has reviewed the State Controller's Office draft report covering revenues for the period of July 1, 2001 through June 30, 2006. With respect to those audit findings, we offer the following response:

Finding 1 – The Superior Court of California and the County of San Bernardino are separate entities. Since the County prepares the remittances to the State, they will respond to this finding.

Finding 2 – The Superior Court of California and the County of San Bernardino are separate entities. Since the Central Collections Department is part of the County, the County will respond to this finding.

Finding 3 – The Superior Court of California and the County of San Bernardino are separate entities. Since the Central Collections Department is part of the County, the County will respond to this finding.

Finding 4 – The County of San Bernardino does not concur with this finding and will be responding accordingly. We hereby request clarification on this finding based on the County's response. The Court will act in accordance with the resolution of this matter; however, we do offer the following response related to this finding:

When AB139 was enacted, our court had no mechanism to accurately separate the delinquent payments from the current payments in our case management system. In addition, the County of

San Bernardino, Central Collections Department, began remitting only the net delinquent collections to the Court, after recovering their costs from the revenue received. Therefore, the Court had no choice but to develop a reasonable method to allocate the County's costs against the delinquent revenue until such time as the Court's case management system could be updated to provide this information. From October 2005 to January 2006, we utilized the same methodology that was developed by a State Controller's Office auditor, from a previous State Revenue audit, where differences were allocated based on a formula to spread revenue over all qualifying agency accounts. This was the most reasonable and cost effective method we had to allocate these costs.

Then in February 2006, we received additional information from a study conducted by Shasta Superior Court, whereby collection costs were allocated against monthly gross revenue. The study showed immaterial differences between the current and delinquent payment allocations for all qualifying agency accounts. This appeared to be a more reasonable approach than our first method of allocation and we implemented this methodology from February 2006 to August 2006.

During this time, the Court partnered with the Riverside Superior Court and was able to develop a new approach for querying the delinquent payments from our case management system. This new methodology was implemented in September 2006 and we continue to allocate collection costs against delinquent revenue only, on a monthly basis, based on these queries for delinquent payments.

The allocation we performed was reasonable, based on the circumstances stated above. Re-allocation of any amount would be immaterial and cost prohibitive to perform the re-allocation.

Finding 5 – The San Bernardino Superior Court concurs with this finding and we have adjusted our accounts accordingly. The County of San Bernardino transferred the underremitted collections, in the amount of \$2,322,665.00, to the state on August 14, 2008. In addition, all Traffic Violator School revenue, collected for the State Court Facilities Construction Fund, has been reallocated, pursuant to this finding, for collections from July 2006 thru May 2008. The County of San Bernardino adjusted their state remittance for this as well on August 14, 2008. Beginning in June 2008, we are calculating this distribution manually, on a monthly basis, until we can revise the Court Case Management System to calculate this properly.

Finding 6 – The San Bernardino Superior Court **has** made all required distributions to the County General Fund, the State General Fund and the State Transportation Fund for evidence of financial responsibility fines for the audit period. The language in PC 1463.22 on which the State Controller's Office relies is descriptive and not the operative language of the statute. The statute reads, "Notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, seventeen dollars and fifty cents (\$17.50) *for each conviction* ... shall be deposited by the county treasurer in a special account..." The language of subsection (b) differs only in that "three dollars (\$3)" has been substituted for "seventeen dollars and fifty cents (\$17.50)". Subsection (c) is also similar; requiring that, "ten dollars (\$10) *upon the conviction of*, or upon the forfeiture of bail from.... shall be deposited by the county treasurer in a special account..." The use of "for each conviction" or "upon conviction" merely describes the source of the money and should not be construed as directing when the deposit is made.

PC1463.001 states "...all fines and forfeitures imposed **and collected**.....shall as soon as practicable **after receipt thereof**, be deposited with the county treasurer..." Rules of statutory

Mr. Steven Mar
February 4, 2009
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construction provide that specific language in one statute prevails over the general language of another. The provision of PC 1463.001 allowing deposit "as soon as practicable" is more specific than the language of PC 1463.22 and therefore determinative.

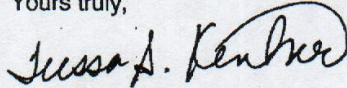
In addition, VC16029(e)(2) states, "Notwithstanding any other provision of law....the court may direct that the fine and penalty assessments be paid within a limited time or in installments on specified dates." Effectively, the specific language of "Notwithstanding any other provision of law" means that in the event of any conflict between PC 16029 and another penal code section, PC 16029 is the determinative statute.

Upon receipt of payment for the imposed fine, the distribution **is** made in a timely manner to the appropriate agencies. Convictions and collection of revenue are not synonymous, and the Court is unable to advance money it doesn't have until payments are actually received. The Court believes the State Controller's Office has misinterpreted the meaning of the law and we have referred this matter to the Administrative Office of the Courts.

Finding 7 – The San Bernardino Superior Court concurs with this finding and we have revised the distribution priorities in the Court Case Management System to reflect an additional priority level for the State Victim Indemnity Fund, pursuant to PC 1463.18, effective June 25, 2008.

Should you desire any additional information, please do not hesitate to contact me.

Yours truly,



Tressa S. Kentner
Court Executive Officer

2-5-09

e-mailed copy to Kathy Kirkhoffer, Harold Ochi, and
Judy Raymond. - SB

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Tressa S. Kentner

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PS Form 3800 August 2005 See Reverse for Instructions

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